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MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
CENTRAL VALLEY AUDITORIUM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 12, 2004  
9:30 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Marie Carter, Chief Counsel

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Don Augenstein

Bridget Brown

Marshalle Graham

Keith Kennedy

Bill Orr

Bernie Vlach

Joanne Vorhies, Acting Assistant Director

Scott Walker

Becky Williams

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APPEARANCES CONTINUED

ALSO PRESENT

Yvette Agredano, California Chapter of SWANA  
John Cupps, Los Angeles County Sanitation District

Don Augenstein, Yolo County Planning & Public Works  
Department

Denise Delmatier, NorCal Waste Systems

Sean Edgar, CRRC

Chuck Helget, Allied Waste/BFI

George Larson, Waste Management

Scott Smithline, Californians Against Waste

Larry Sweetser, Rural Counties ESJPA

Shannon Wright, CH2M Hill

Ramin Yazdari, Yolo County Planning and Public Works  
Department

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: I want to  
3 apologize for being late. The Board was meeting in closed  
4 session, and we went a little bit longer than we had  
5 anticipated.

6 Welcome to the second day of our May Board  
7 meeting. We'll be -- well, first of all, let's declare  
8 any ex partes.

9 Ms. Peace.

10 BOARD MEMBER PEACE: No, I'm up to date.

11 CHAIRPERSON MOULTON-PATTERSON: I am up to date,  
12 with the exception I said hello to a number of people in  
13 the waste industry at the Trash Bash, but talked about no  
14 issues.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Yeah, I was also at the  
17 Trash Bash last night, and didn't talk about anything  
18 coming before the Board, although I talked to a number of  
19 industry representatives.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.  
21 Washington.

22 BOARD MEMBER WASHINGTON: Yeah, I only have Larry  
23 Sweetser. And we talked about Item 18.

24 CHAIRPERSON MOULTON-PATTERSON: Okay, great.

25 We had a long day yesterday, as many of you know

1 that were here.

2 Today, the schedule that we will -- and please  
3 correct me if I'm -- Oh, is Mr. -- am I starting before  
4 Mr. Leary's here?

5 SECRETARY WADDELL: Roll call.

6 CHAIRPERSON MOULTON-PATTERSON: Oh, yeah, roll  
7 call. We might start with that.

8 Thanks, Sharon.

9 SECRETARY WADDELL: Paparian?

10 BOARD MEMBER PAPARIAN: Here.

11 SECRETARY WADDELL: Peace?

12 BOARD MEMBER PEACE: Here.

13 SECRETARY WADDELL: Washington?

14 BOARD MEMBER WASHINGTON: Here.

15 SECRETARY WADDELL: Moulton-Patterson?

16 CHAIRPERSON MOULTON-PATTERSON: Here.

17 We have our quorum.

18 Anyway, so we're going to be starting with Item  
19 22, 14, 15, 18, 19, 20, 21, 24, 27, and Item 30.

20 I have a note here Item 30 needs to be heard  
21 before lunch. But I'm intending to have all of these  
22 heard before lunch. So we'll see. I'm an optimist.

23 Anyway, we'll go ahead and start with Ms. Vorhies  
24 on Item No. 22.

25 ACTING ASSISTANT DIRECTOR VORHIES: Good

1 morning, Madam Chair, Board members. Joanne Vorhies from  
2 the Office of Education and the Environment.

3 Item 22 is consideration of a grant award for the  
4 San Luis Obispo County Office of Education for Fiscal Year  
5 2003-2004.

6 And Becky Williams is here to present the item.

7 MS. WILLIAMS: Good morning.

8 CHAIRPERSON MOULTON-PATTERSON: Good morning.

9 MS. WILLIAMS: I hope you're all well this  
10 morning, and thank you for your time.

11 Agenda Item No. 22 seeks your approval to award a  
12 grant to the San Luis Obispo County Office of Education to  
13 further our efforts at implementing two pieces of  
14 environmental education legislation: SB 373, known as the  
15 School DEEL; and the recently enacted AB 1548, authored by  
16 Assemblywoman Pavley.

17 The funding for this proposed direct grant is  
18 derived from surplus grant funds that the Board  
19 established under SB 373. There is a balance of \$293,000  
20 of unencumbered funds. If the funds are not encumbered by  
21 June 2004, they will revert.

22 The SB 373 funds are to be used solely for the  
23 purposes of providing grants to county offices of  
24 education, school districts, and schools. Given these  
25 parameters as well as the fact that AB 1548 directly



1 references and builds upon SB 373, staff believes the  
2 recommendation before you is well meaning and an  
3 appropriate use of the funds.

4           The San Luis Obispo County Office of Education  
5 has been identified as a strong partner to the AB 1548  
6 effort, which includes the development of environmental  
7 principles and a model curriculum.

8           The County Office of Ed has the infrastructure to  
9 administer a grant of this magnitude and provide the  
10 necessary coordination that will be required. A  
11 significant factor is that the County Office of Ed's role  
12 as the statewide coordinator for the California Regional  
13 Environmental Education Community, or CREEK as it's known,  
14 is a significant factor in selecting them as the grantee.

15           The CREEK network, under the auspices of the  
16 California Department of Education, has 11 regions  
17 throughout the state. Each region's coordinator works  
18 closely with local resource agencies and stakeholders  
19 within his or her region. The network would be utilized  
20 to garner support and consensus on the information and the  
21 materials developed, such as the model curriculum, as  
22 prescribed in 1548, and based upon SB 373's unified  
23 education strategy.

24           So given that information, we hope that you can  
25 see the value and the benefits of utilizing this available

1 funding and working with a reputable county office of  
2 education in our mission to fulfill the requirements of  
3 these significant education-related laws.

4 So thank you for your consideration. And we  
5 welcome any of your questions.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Ms. Peace.

8 BOARD MEMBER PEACE: Great.

9 If there aren't any questions, I would like to  
10 move Resolution 2004-153, consideration of a grant award  
11 for the San Luis Obispo County Office of Education for  
12 Fiscal Year 2003-2004.

13 BOARD MEMBER WASHINGTON: Second.

14 BOARD MEMBER PAPARIAN: Second.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
16 motion by Ms. Peace, seconded by Mr. Paparian and Mr.  
17 Washington, to approve Resolution 2004-153.

18 Please call the roll.

19 SECRETARY WADDELL: Paparian?

20 BOARD MEMBER PAPARIAN: Aye.

21 SECRETARY WADDELL: Peace?

22 BOARD MEMBER PEACE: Aye.

23 SECRETARY WADDELL: Washington?

24 BOARD MEMBER WASHINGTON: Aye.

25 SECRETARY WADDELL: Moulton-Patterson?

1 CHAIRPERSON MOULTON-PATTERSON: Aye.

2 Item No. 14.

3 DEPUTY DIRECTOR LEVENSON: Good morning, Madam  
4 Chair and Board members. Howard Levenson with the  
5 Permitting and Enforcement Division.

6 This item is a consideration of a revised Full  
7 Solid Waste Facilities Permit for the Tulare County  
8 Recycling Complex in Tulare County.

9 Keith Kennedy will be making the presentation on  
10 this item.

11 MR. KENNEDY: Good morning, Madam Chair and Board  
12 members.

13 The Tulare County Recycling Complex is a  
14 privately owned and operated regional transfer station and  
15 material recovery facility located in southeast Tulare  
16 County. The facility is permitted to accept up to 1,200  
17 tons per day of municipal solid waste, construction and  
18 demolition waste, and curbside recyclables.

19 In order to avail of this tonnage capacity, the  
20 operator applied to the Tulare County Resource Management  
21 Agency who, acting as lead agency, circulated a Negative  
22 Declaration for an increase in the permitted traffic  
23 volume from 123 to 247 vehicles per day. The Negative  
24 Declaration was circulated and adopted by the lead agency  
25 in December of 2003.

1           The facility is also formally changing its name  
2 to Recycle America Alliance. However, it will continue to  
3 do operations -- business as the Tulare County Recycling  
4 Complex.

5           Board staff have determined that all the  
6 requirements for this proposed permit revision have been  
7 fulfilled. In conclusion, the staff recommends that the  
8 Board adopt Board Resolution No. 2004-145, concurring with  
9 the issuance of Solid Waste Facility Permit No. 54AA-0027.

10          This concludes my presentation.

11          George Larson, representing the Tulare County  
12 Recycling Complex, and Allison Shuklian, the LEA for  
13 Tulare County, are also available for questions.

14          CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
15 very much.

16          Mr. Washington.

17          BOARD MEMBER WASHINGTON: If there's no  
18 questions, Madam Chair, I'd like to move this item.

19          I'd like to move adoption of Resolution 2004-145,  
20 consideration of a Full Solid Waste Facilities Permit  
21 (transfer station) for the Tulare County Recycling Complex  
22 in Tulare County.

23          BOARD MEMBER PEACE: Second.

24          CHAIRPERSON MOULTON-PATTERSON: We have a motion  
25 by Mr. Washington, seconded by Ms. Peace, to approve

1 Resolution 2004-145.

2 Without objection, please substitute the previous  
3 roll call.

4 Brings us to Item 15.

5 DEPUTY DIRECTOR LEVENSON: Okay. Item 15 is  
6 consideration of a revised full solid waste facilities  
7 permit for the Woodville Disposal Site in Tulare County.

8 This is a more complicated permit in terms of the  
9 issues associated with it. And so Keith is going to make  
10 a presentation that's a little more detailed so you have a  
11 better understanding, and public, of the issues, as well  
12 as some pictures of the site to understand some of the  
13 complex land use issues associated with it.

14 The LEA, the operator, the operator's consultant,  
15 and a representative from the Fish & Wildlife Service are  
16 here this morning to answer any questions that you might  
17 have after Keith's presentation.

18 (Thereupon an overhead presentation was  
19 Presented as follows.)

20 MR. KENNEDY: The current permit for the  
21 Woodville Disposal Site was issued in 1979.

22 Per a former Board strategic plan the targeted 69  
23 old permits that needed revisions, the Woodville Disposal  
24 Site is one of the final seven that remain on the list.

25 The Woodville Disposal Site is owned and operated

1 by the Tulare County Resources Management Agency, and  
2 primarily serves the unincorporated areas of southern  
3 Tulare County.

4 --o0o--

5 MR. KENNEDY: The proposed revisions to the  
6 permit would allow for the following significant changes:

7 An increase in tonnage from 114 to 1,078 tons per  
8 day. Currently, the landfill is averaging 215 tons per  
9 day. The agenda item incorrectly states 531 tons per day  
10 on page 15-4.

11 An increase in the permitted boundary from 313 to  
12 525 acres.

13 A defined disposal footprint of 152.5 acres.

14 A defined maximum of 489 vehicles per day.  
15 Currently the landfill is averaging 130 vehicles per day.

16 A change in the permitted hours of operation from  
17 9 a.m. to 5 p.m. seven days per week to Monday through  
18 Friday, 6 a.m. to 4 p.m., Saturday, 8 a.m. to 4 p.m., and  
19 closed on Sundays.

20 And the final change defines the maximum  
21 elevation as 393 feet above mean sea level.

22 --o0o--

23 MR. KENNEDY: An environmental impact report was  
24 prepared for these changes. The document was certified  
25 and the project approved by the Tulare County Board of

1 Supervisors in 1996, with mitigation measures in place,  
2 which I'll expand upon after I give you some additional  
3 background information.

4 This is a satellite view of the permitted 313  
5 acre facility.

6 --o0o--

7 MR. KENNEDY: Here we can see the current  
8 activities at the facility. Landfill operations in blue  
9 are confined to 99.23 acres. The current disposal  
10 footprint in orange is confined to 73 acres. The barrow  
11 pit is at the lower right side. And the facility's  
12 entrance is from Road 152, which is a two-lane road that  
13 bisects the landfill, which is the white line through the  
14 middle of the photograph.

15 --o0o--

16 MR. KENNEDY: This next slide is what was  
17 originally proposed at the Woodville Disposal Site. The  
18 proposal was to use all of the existing 313 acres, the  
19 entire area in orange, as the disposal footprint, with the  
20 barrow pit to the west and landfill operations to the  
21 north.

22 However, during the development of the  
23 environmental impact report, which was required prior to  
24 implementing these changes, it was discovered that the  
25 proposed disposal footprint contained habitat used by the

1 Western Burrowing Owl, a species of concern listed by the  
2 Department of Fish & Game.

3 --o0o--

4 MR. KENNEDY: This next slide shows where the  
5 habitat areas are located, the areas in yellow.

6 --o0o--

7 MR. KENNEDY: This photograph is of the habitat  
8 area looking southwest from the top of the landfill.

9 --o0o--

10 MR. KENNEDY: This photograph is a closer look at  
11 the habitat area from Road 152.

12 --o0o--

13 MR. KENNEDY: This photograph was taken from the  
14 western habitat area looking back towards the landfill.

15 --o0o--

16 MR. KENNEDY: And this photograph was taken from  
17 the southern habitat area looking north towards the  
18 landfill.

19 The operator Woodville Disposal Site also  
20 contacted the U.S. Fish & Wildlife Service to find out  
21 what were the federal requirements subsequent to the  
22 discovery of the habitat area.

23 --o0o--

24 MR. KENNEDY: Per federal requirements, the  
25 operator had to file an implementation agreement to



1 produce a habitat conservation plan for the habitat areas.  
2 In addition, the operator applied for an incidental take  
3 permit to expand the disposal footprint into part of the  
4 habitat area. Thereafter, the operator had to produce an  
5 environmental assessment to comply with the National  
6 Environmental Policy Act. These documents also fulfilled  
7 state requirements of the California Department of Fish &  
8 Game.

9 As I stated earlier, mitigation measures were put  
10 into the environmental impact report for this project.  
11 One of these mitigation measures deferred to the authority  
12 of the California Department of Fish & Game and the U.S.  
13 Fish & Wildlife Service by stating that any ground  
14 disturbance or excavation for the lateral expansion of the  
15 disposal area footprint and/or landfill operation shall  
16 not proceed into an area where the habitat has been  
17 determined by a qualified biologist to potentially harbor  
18 burrowing owls and that may be excluded from any  
19 development by the California Department of Fish & Game  
20 and/or the United States Fish & Wildlife Service in  
21 accordance with an approved habitat conservation plan.

22 --o0o--

23 MR. KENNEDY: Essentially the operator is  
24 prohibited from expanding landfill operations into the  
25 yellow habitat areas without having approvals from

1 Department of Fish & Game and the U.S. Fish & wildlife  
2 Service.

3           Also during the completion of the Habitat  
4 Conservation Plan it was discovered that the same habitat  
5 used by the Western Burrowing Owl could also be used by  
6 the San Joaquin Kit Fox and the Vernal Pool Ferry Shrimp.  
7 These species are listed under the Federal Endangered  
8 Species Act as endangered and threatened, respectively, as  
9 opposed to the Western Burrowing Owl, which is considered  
10 a species of concern.

11                               --o0o--

12           MR. KENNEDY: This next slide shows alkali rain  
13 pools, which could be used as habitat for the Vernal Pool  
14 Ferry Shrimp.

15           I should point out that neither the San Joaquin  
16 Kit Fox nor the Vernal Pool Ferry Shrimp have been  
17 identified in the habitat areas, but that these areas  
18 could be used as habitat by both species.

19           At the present time the operator has completed  
20 the Habitat Conservation Plan and filed for an incidental  
21 take permit with the U.S. Fish & Wildlife Service. These  
22 documents are pending approval of the U.S. Fish & Wildlife  
23 Service, which I'm told could take an additional ten  
24 months.

25           I want to take a second to demonstrate to the

1 Board the existing and proposed activities at the  
2 Woodville Disposal Site should approval come from the U.S.  
3 Fish & Wildlife Service and the Board concur on the  
4 issuance of this permit revision.

5 --o0o--

6 MR. KENNEDY: This slide is a reminder of the  
7 current activities at the facility, showing the habitat  
8 areas, landfill operations, and the proposed boundary.

9 --o0o--

10 MR. KENNEDY: This slide shows the proposed  
11 activities at the Woodville Disposal Site.

12 The disposal footprint will expand south to  
13 encompass all of the southern area, which will result in  
14 the loss of 53 acres of habitat area. However, the middle  
15 yellow section consisting of 160 acres, which was  
16 originally planned as a disposal area, will be designated  
17 as a habitat conservation area. Also, the western section  
18 consisting of 125 acres will be designated as foraging  
19 habitat for the San Joaquin Kit Fox. Both of these areas  
20 will be held in this state in perpetuity.

21 Finally, landfill operations will move to the  
22 north of the disposal footprint.

23 Even though the Habitat Conservation Plan and the  
24 incidental take permit have yet to be approved, the  
25 operator of the Woodville Disposal Site was required to

1 submit a permit application for this facility to comply  
2 with a notice and order that was issued by the local  
3 enforcement agency.

4           When the notice and order was originally issued,  
5 the local enforcement agency was operating under a  
6 workplan from the Board's LEA evaluation section. During  
7 the evaluation a finding was made that stated the local  
8 enforcement agency has failed to prepare or cause to be  
9 prepared permits or permit revisions.

10           However, Board staff, and LEA, and the operator  
11 agreed that in order to prepare the permit revision for  
12 the Woodville Disposal Site, federal approval was needed.  
13 However, no federal regulations exist requiring the needed  
14 documents to be approved within a certain time line.  
15 Therefore, the operator was given three years to submit  
16 the permit application per the notice and order.

17           Fast forward three years to today, the operator,  
18 as I stated, has submitted the permit application for the  
19 Woodville Disposal Site, meeting the requirements of the  
20 notice and order. Except the Habitat Conversation Plan  
21 and the corresponding documents have not yet been approved  
22 by the U.S. Fish & Wildlife Service.

23           In order to resolve the situation, the local  
24 enforcement agency in close consultation with Board staff  
25 decided that since the operator had complied with the

1 notice and order and met all the requirements of Title 27  
2 Section 21570 permit application package operator  
3 requirements, that by adding certain conditions to the  
4 permit for the Woodville Disposal Site they could submit  
5 the proposed permit package to the Board for  
6 consideration.

7 --o0o--

8 MR. KENNEDY: The first LEA condition that was  
9 placed in the proposed permit for the Woodville Disposal  
10 Site reiterates the mitigation measure from the  
11 environmental impact report requiring the operator to have  
12 an approved Habitat Conservation Plan from the Department  
13 of Fish & Game and/or the United States Fish & Wildlife  
14 Service prior to any lateral expansion of the disposal  
15 footprint or operational area.

16 --o0o--

17 MR. KENNEDY: The second LEA condition reiterates  
18 the requirements for state and federal approval of the  
19 necessary documents. If the approval is given, Condition  
20 O also requires the operator to submit a permit  
21 application within 30 days to the LEA for permit review.  
22 This will allow the LEA to verify that what was approved  
23 by the California Department of Fish & Game and/or the  
24 United States Fish & Wildlife Service is not a significant  
25 change from the limitations contained in the Solid Waste

1 Facilities Permit before you today.

2           If the LEA makes the determination that there has  
3 been a significant change, the operator will be required  
4 to submit another permit application for consideration by  
5 the Board.

6           Staff would also like to make the Board aware  
7 that according to the U.S. Fish & Wildlife Service, the  
8 project may not be approved as proposed in the Habitat  
9 Conservation Plan. If this was to occur, it would be  
10 considered a significant change to the permit, and the  
11 operator would be required to submit a new permit revision  
12 application for consideration by the Board.

13           For the record, the resolution for this item,  
14 which you should have a copy of -- I hope -- was revised  
15 to clarify the environmental documents including the  
16 proposed Habitat Conservation Plan upon which Board  
17 staff's determination was made. Copies of this resolution  
18 are available on the back table for interested parties.

19           Board staff have determined that all the  
20 requirements for the proposed permit have been fulfilled.

21           In conclusion, staff recommend that the Board  
22 adopt Board Resolution No. 2004-147, concurring with the  
23 issuance of Solid Waste Facilities Permit No. 54AA-0008.

24           This concludes my presentation.

25           Jeff Monaco, the Solid Waste Manager from the

1 Tulare Resource Management Agency; Keith Jahnke, the LEA  
2 for Tulare County; and Eric Tattersall from the U.S. Fish  
3 & Wildlife Service are available for any questions. And  
4 I'd be happy to answer any questions also.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
6 so much for your report.

7 Mr. Paparian.

8 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam  
9 Chair.

10 Let me just -- so we're waiting for the Fish &  
11 Wildlife Service determination, right?

12 MR. KENNEDY: Correct.

13 BOARD MEMBER PAPARIAN: Okay. And if they make a  
14 determination that says that they don't want this facility  
15 to go in this -- the lower area of the map you showed us,  
16 then pursuant to the permit the applicant's required to  
17 come back with a revised permit?

18 MR. KENNEDY: That would be considered a  
19 significant change, and they would have to come back to  
20 the Board, yes. Because as the permit is written right  
21 now, it states that the disposal area is 152.5 acres, I  
22 think --

23 BOARD MEMBER PAPARIAN: Okay. And so there's no  
24 way they could use what we do today to trump the Fish &  
25 Wildlife Service presumably?

1 MR. KENNEDY: No.

2 BOARD MEMBER PAPARIAN: Okay. Then I'm fine.

3 I'll go ahead and move Resolution 2004-147,  
4 revised.

5 BOARD MEMBER WASHINGTON: Second.

6 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
7 by Mr. Paparian, seconded by Mr. Washington, to approve  
8 Resolution 2004-147.

9 Please substitute the previous roll call.

10 Eighteen. And we do have some speakers on No.  
11 18.

12 DEPUTY DIRECTOR LEVENSON: Eighteen.

13 Item 18. And if I could say one thing. I want  
14 to thank Keith for that presentation. That was a very  
15 complicated permit issue, and we worked very hard to make  
16 sure that it was in a condition that it could be brought  
17 before you where you would be comfortable with the  
18 approval of concurrence. There was a lot of work --

19 CHAIRPERSON MOULTON-PATTERSON: He did a very  
20 good job. Thank you very much, Keith.

21 DEPUTY DIRECTOR LEVENSON: -- behind the scenes  
22 on that.

23 BOARD MEMBER PEACE: Yeah, thank you for  
24 mentioning that, Howard, because it sounds to me like the  
25 staff, along with the LEA and the operator, have all



1 worked really closely in dealing with this very  
2 complicated problem.

3 DEPUTY DIRECTOR LEVENSON: Thank you.

4 Number 18 is a public hearing and request for  
5 rulemaking direction to notice revisions to the proposed  
6 Solid Waste Facility Permit Application Form regulations  
7 for an additional 15-day comment period.

8 We're going to have -- Bridget Brown is going to  
9 make the initial part of the presentation about the  
10 regulations themselves. And then Bernie Vlach has some  
11 additional comments based on a meeting we had with  
12 stakeholders on Thursday afternoon to discuss some of  
13 their concerns.

14 MS. BROWN: Good morning, Madam Chair. I'm  
15 Bridget Brown with the Facilities Operations Branch.

16 This item is a request for rulemaking direction  
17 to notice revisions to the proposed Solid Waste Facility  
18 Permit Application Form regulations for an additional  
19 15-day comment period. This meeting constitutes the  
20 public hearing for these regulations.

21 The 2001 State Auditor's report, among other  
22 things, recommended that the Board require local  
23 governments to report accurate landfill capacity  
24 information in a consistent manner.

25 In an effort to collect accurate landfill

1 capacity information from local governments, at the  
2 February 19th, 2002, Board meeting, staff proposed  
3 drafting new regulations requiring landfill operators to  
4 submit remaining landfill capacity data in a consistent  
5 manner and on a regular basis to establish baseline  
6 quantities and provide for regular updates.

7           At that time, the Board directed staff to instead  
8 look at data compiled by other Board programs to use as  
9 possible sources of remaining landfill capacity  
10 information and report back at a later date.

11           After reviewing several different methods of  
12 obtaining landfill capacity information, the Permitting  
13 and Enforcement Committee at its June 10th, 2002, meeting  
14 directed staff to use the existing Solid Waste Facilities  
15 Permit Application as a method of obtaining and compiling  
16 accurate and consistent remaining landfill capacity data.

17           The existing Solid Waste Facility Permit  
18 Application currently requires all operators of solid  
19 waste facilities to provide some information regarding  
20 landfill capacity. However, the application lacks a  
21 concise and consistent set of information -- of  
22 instructions as to how this information is to be  
23 presented.

24           The proposed application form and instructions  
25 revisions add clarity to this requirement. The

1 information asked for in the proposed application form is  
2 not new, but is information that has always been required  
3 in the application package.

4 A working group was created to revise the current  
5 application and its instructions. This working group  
6 consisted of several staff members from various areas of  
7 the Permitting and Enforcement Division as well as a  
8 member of the Board's legal staff.

9 Once the draft documents were prepared, they were  
10 sent for review to a small focus group consisting of  
11 members of the regulated community. The working group  
12 reviewed all comments received and made revisions to the  
13 application as necessary.

14 An informal public workshop was then held on  
15 Tuesday, March 25th, 2003. Staff reviewed all comments  
16 received from the workshop and made further revisions to  
17 the application as necessary.

18 At its April 7th, 2003, meeting, the Permitting  
19 and Enforcement Committee directed staff to notice a  
20 45-day comment period for proposed changes to the permit  
21 application and instructions. The comment period began on  
22 February 27th, 2004, and closed on Monday, April 12th,  
23 2004. Staff received four written comment letters during  
24 this period and one after.

25 On May 6th, 2004, Board staff met with industry

1 representatives to discuss concerns viewed in the comment  
2 letters. Staff and industry agreed that the meeting was  
3 productive.

4 This concludes my presentation. And next will be  
5 Bernie Vlach.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
7 much.

8 FACILITIES OPERATIONS BRANCH MANAGER VLACH: Good  
9 morning, Madam Chair and members. My name is Bernie Vlach  
10 and I'm the Supervisor that's responsible for shepherding  
11 this regulations package.

12 With your permission, I'd like to regress a bit  
13 and have us consider some of the history related to this  
14 regulatory effort.

15 You know, from the very beginning, as far back as  
16 1978, the Board recognized the importance of the need for  
17 remaining -- of determining remaining site life for  
18 individual solid waste landfills. Between 1978 and 1996,  
19 the Board's regulations included a requirement for  
20 operators to submit to the Board at least every five years  
21 a document called a periodic site review that was to be  
22 prepared by a registered civil engineer. That would  
23 include an estimate of remaining site life and  
24 calculations to show how that was determined.

25 But this information is needed by the Board's

1 regulatory programs. For example, a solid waste landfill  
2 progresses through various phases towards closure. And  
3 it's important to know at what point in time various  
4 closure requirements for preliminary closure plans and  
5 final closure plans go into effect. That information can  
6 only be determined and is based on remaining site life.

7           This requirement for a periodic site review was  
8 removed in 1996 at about -- as a result of Assembly Bill  
9 AB 1220. But at the same time this kind of information  
10 was then included in the permit application. The  
11 information such as remaining site life, total air volume  
12 for the facility and that kind of thing was included in  
13 the permit application form, which is included in your  
14 package here. The information was also included in the  
15 body of the regulations, the California Code of  
16 Regulations.

17           The need for this type of remaining site life  
18 information for regulatory purposes continues to be  
19 recognized by the Board. For example, in the item that  
20 you just heard about the Woodville landfill, the operator  
21 proposed an increase in over six million yards of air  
22 capacity for additional waste volume. And if you recall  
23 from the item, the operator estimated that the remaining  
24 site life could be from 16 to 48 years depending on how  
25 much waste was received, the compaction density, the waste

1 to -- the cover to volume ratios, which are the important  
2 factors for determining remaining site life. And this is  
3 the issue that the staff is getting at now with these  
4 regulations, the need to determine remaining site life on  
5 a facility-by-facility basis.

6 Another important use of this kind of information  
7 is for verifying financial assurances information. More  
8 than half of the solid waste landfills in the state have  
9 buildup-type mechanisms, where they're required to fund  
10 their closure and post-closure as fast as they fill. So  
11 if they're half full, they need to have half the money in  
12 their account; three-quarters full, three-quarters in  
13 their account. Staff does receive information from  
14 landfill operators where they declare, "I'm half full" or  
15 "I'm three-quarters full." But staff uses this kind of  
16 information to verify that in fact a facility is  
17 three-quarters full when they say they're three-quarters  
18 full.

19 So the issue isn't so much about cubic yards, the  
20 millions of cubic yards of capacity or compaction  
21 densities or waste-to-cover ratios. It's more -- the  
22 issue is more of: What is the remaining site life of an  
23 individual facility?

24 The information and the -- this issue was  
25 recognized by the State Auditor, and who requested that

1 the Board get better remaining site life information and  
2 on a consistent basis. And so that is the reason that  
3 this package is before you today.

4 Now, this doesn't mean that once the Board has  
5 this kind of information for individual facilities, that  
6 it can't then use it for other purposes. For example, it  
7 can aggregate the information by county or by region and  
8 look at how much remaining site life is there on a  
9 regional basis. And that's a side benefit of this type of  
10 information.

11 Now, I'd like to mention the kinds of comments  
12 that we received during the 45-day period. We received  
13 only five written comments. And then subsequently we held  
14 a stakeholders' meeting last Thursday. We shared with the  
15 stakeholders our response to their comments. And that we  
16 felt that the meeting was very productive.

17 Specifically, I'd like to mention that there were  
18 some concerns expressed that certain terms that were used  
19 in the draft regulations were not clearly defined. And  
20 staff is comfortable with making -- creating definitions  
21 for those terms or making them more clear in the draft  
22 regulations which would be -- those changes would be made  
23 prior to the 15-day comment period which the staff is  
24 requesting.

25 There were other comments that the method for

1 reporting certain statistics was too prescriptive, and  
2 that there was a request for some alternative approaches.  
3 Staff has also agreed that rather than needing to report  
4 compaction density and waste-to-cover ratios, that an  
5 alternative approach which the stakeholders did propose  
6 would be acceptable. And that comment -- that change can  
7 also be made prior to the 15-day comment period.

8           There was some other comments. One was about a  
9 fire district approval. And staff has made the change in  
10 the application form which is reflected in your package.

11           One commenter was just misinformed about how the  
12 form was to be used. They thought it was for standardized  
13 permits, and it was really only for full permits. So that  
14 comment really was easy to answer.

15           And, lastly -- well, not lastly. I want to  
16 mention the last one that I think is fairly  
17 straightforward to deal with. There were a number of  
18 comments at the -- particularly at the stakeholders'  
19 conference that we held about: What is the Board going to  
20 do with this information? Now, I already expressed how  
21 it's to be used in regulatory programs. And we know that  
22 it can be used in other ways. But there is some concern  
23 that the Board is going to use this information in ways  
24 that are not being clearly expressed right now. But we  
25 reassured the stakeholders that the intent of this



1 language was expressly for the Board's regulatory  
2 programs, as I've already mentioned.

3           There was also a question about why doesn't the  
4 Board use aggregated information that's already provided  
5 by local government, for example, in the siting elements  
6 and the disposal reporting system. Again, staff has no  
7 way of knowing how those calculations are being done. If  
8 the information is aggregated, we wouldn't be able to tell  
9 whether there was any consistent method for doing those  
10 calculations and we would not be in a position -- any  
11 better position than we really are today.

12           And then one commenter requested that landfills  
13 that receive less than 200 tons a day be exempted from  
14 these requirements, the requirement to submit -- to do  
15 site surveys, for example. And they felt that this -- the  
16 need for a site survey every five years was onerous and  
17 costly and that these 200 ton per day or less landfills  
18 couldn't bear the cost.

19           Staff, for example -- did not agree with this  
20 comment. We still, at this point, feel that it is not an  
21 onerous requirement to do a landfill survey at least once  
22 every five years, whatever the size of the landfill.  
23 Understanding that while some of these landfills might be  
24 small in terms of the amount of waste they receive in a  
25 particular region, if they were in a rural area, that

1 small landfill might represent a significant portion of  
2 the remaining capacity. So there could be a regional  
3 issue which wouldn't be reflected in the grand total.

4           And, lastly, I would like to point out that these  
5 regulations are not prescriptive. They don't require any  
6 particular software program or proprietary software.  
7 Staff is simply asking that the operators report -- that  
8 they do a site survey every five years and that they  
9 report the information to us -- actually, we're only  
10 asking for two pieces of calculated information, the fill  
11 volume -- the net fill volume and the net remaining  
12 capacity.

13           And the other information that we're asking for  
14 would be -- we would like the operator to provide us with  
15 a project file from their CAD system. And we're not  
16 telling them which CAD system to use. But whichever CAD  
17 system they use to do their calculations, we would like to  
18 have that CD included in the files in case we ever needed  
19 to do verification work.

20           Now, I'd like to repeat what the staff's  
21 recommendation is. Staff would like the Board's direction  
22 to go out for a 15-day comment period on revised  
23 regulations. Staff would hold at least one more meeting  
24 with the stakeholders before vetting the revised  
25 regulations. The regs would be sent out. We would have a

1 stakeholder meeting. And any changes that were developed  
2 between now and the -- between the Board meeting and the  
3 15-day comment period would be reflected in those revised  
4 regulations.

5 In this process the Board would see the type  
6 of --

7 BOARD MEMBER PEACE: Excuse me. Can you tell me  
8 how long we have to complete the reg package?

9 FACILITIES OPERATIONS BRANCH MANAGER VLACH:  
10 There's -- we have one year.

11 BOARD MEMBER PEACE: A year from now?

12 FACILITIES OPERATIONS BRANCH MANAGER VLACH: No,  
13 a year from February. So we have until next February.

14 BOARD MEMBER PEACE: Okay.

15 FACILITIES OPERATIONS BRANCH MANAGER VLACH: So  
16 in this process the Board would see this package again in  
17 a couple of months and could either adopt the regulations  
18 at that time based on the stakeholders' meetings that we  
19 would have had in the intervening period, or they could  
20 ask that there be another 15-day comment period until we  
21 can get all the issues resolved. And this is the typical  
22 regulatory development process where you narrow down the  
23 issues until finally the Board feels comfortable and can  
24 approve the regulations.

25 So that is the end of my presentation. And we'd

1 be happy to answer any questions.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Thank you.

4 I think I heard you say that, in response to some  
5 of the comment letters you got, you were committing to  
6 making some change before it goes out to the 15 day.

7 FACILITIES OPERATIONS BRANCH MANAGER VLACH: Yes.

8 BOARD MEMBER PAPARIAN: And there was a change  
9 related -- well, why don't you tell me what the change --  
10 what are the changes you expect to have at this point?

11 FACILITIES OPERATIONS BRANCH MANAGER VLACH:

12 Well, we -- there are -- well, we have one  
13 change, for example, that our Legal Office would like to  
14 make in the signature block. It's a legal issue. It's a  
15 minor issue.

16 BOARD MEMBER PAPARIAN: Right. But in terms of  
17 the substantive changes that were raised by the  
18 stakeholders.

19 FACILITIES OPERATIONS BRANCH MANAGER VLACH: The  
20 stakeholders would like to have some definitions or some  
21 clarity on some of the terms. We feel that we can work  
22 that out between now and the 15-day comment period --  
23 before the 15-day comment period. We'll hold another  
24 workshop maybe next week before the 15-day comment period  
25 would even begin. And --

1           BOARD MEMBER PAPARIAN:   Okay.   Was there  
2 something related to the way the calculations were done  
3 too?

4           FACILITIES OPERATIONS BRANCH MANAGER VLACH:

5           There was -- yes, sir.   I mentioned that some of  
6 the landfill operators used a different calculation method  
7 than what we had proposed.   And we have already agreed  
8 with them that we are flexible on that.   So we can just  
9 include that as they've suggested it in the draft  
10 regulations before it goes to 15 day.

11          BOARD MEMBER PAPARIAN:   Okay.   And then what do  
12 you think are the remaining big issues?

13          FACILITIES OPERATIONS BRANCH MANAGER VLACH:   The  
14 only remaining substantive issue, aside from the policy  
15 issues of how is the Board going to use the information  
16 and so forth, which we don't feel are germane to this  
17 package -- those issues were discussed almost two years  
18 ago and before we got to this point.   But the only other  
19 substantive issue is whether some smaller rural landfills  
20 should be exempted from the requirement to do a site  
21 survey.

22          BOARD MEMBER PEACE:   When you mentioned that --  
23 before you mentioned it like 200 tons.   So I'm confused  
24 here, because I have a letter from the rural counties  
25 saying 20 tons, that they'd be exempt if they were

1 accepting an average of 20 tons per day or less.

2 FACILITIES OPERATIONS BRANCH MANAGER VLACH: Ms.  
3 Peace, the original proposal was for 200 tons.

4 BOARD MEMBER PEACE: So from this letter here,  
5 they're asking that we change it to exempt the landfills  
6 accepting the average of 20 tons per day. Is that --

7 FACILITIES OPERATIONS BRANCH MANAGER VLACH:  
8 Apparently they've changed their request.

9 BOARD MEMBER PEACE: Okay. And has that been --  
10 will that change be in the modified regulations?

11 FACILITIES OPERATIONS BRANCH MANAGER VLACH:  
12 Again, expressing the staff's feeling that we  
13 don't think any landfill should be exempted from these  
14 requirements. We don't think they're onerous and that a  
15 survey once every five years is probably a good thing even  
16 for a small landfill. Now, I did have a discussion with  
17 one of the commenters about this and suggested that rather  
18 than exempt the landfills based on -- from doing the  
19 survey at all, we've suggested perhaps that they might --  
20 staff would be flexible and allow in the draft regulations  
21 a survey every ten years. So they would still wind up  
22 doing the survey, but they would spread the cost out over  
23 a ten-year period rather than a five-year period.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian, you  
25 had floor. Were you still --

1 BOARD MEMBER PAPARIAN: Yeah, just quickly to  
2 follow up on that.

3 Okay. If they did it every ten years, would we  
4 get a simpler calculation every five years without doing a  
5 full-blown survey?

6 FACILITIES OPERATIONS BRANCH MANAGER VLACH:

7 During the intervening period between surveys  
8 staff is proposing to use information from the Board of  
9 Equalization about how many tons have come into the  
10 facility, and extrapolate or interpolate the remaining  
11 capacity for every landfill. And then at the next time  
12 the survey was done, we would verify that that  
13 information was correct.

14 BOARD MEMBER PAPARIAN: Okay. And are you  
15 suggesting that on a below 20 ton or below 200 ton?

16 FACILITIES OPERATIONS BRANCH MANAGER VLACH: The  
17 20 ton -- staff would be agreeable with the 20 ton --  
18 permitted 20 tons per day. That's one of the other issues  
19 that we don't agree on, is that the commenter wants to use  
20 an average of 20 tons per day. And what is -- that  
21 doesn't really -- it's hard to determine what that means,  
22 an average, you know -- there's a moving average. So  
23 staff feels that it's better to use the permitted -- the  
24 permit, where you know who's in and who's out.

25 BOARD MEMBER PAPARIAN: Okay. And maybe after

1 we're done hearing from the folks, you could give us a  
2 sense of how many we're talking about, a ballpark range of  
3 how many we're talking about at 20 and 20 to 200 --

4 FACILITIES OPERATIONS BRANCH MANAGER VLACH: If  
5 it's an average, we're probably talking about 40. If it's  
6 a permitted, we're probably talking about 8.

7 BOARD MEMBER PAPARIAN: Okay.

8 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace, if you  
9 were finished, I'd like to go to the public speakers.

10 Denise Delmatier, NorCal Waste Systems. And  
11 she'll be followed by John Cupps. I'd ask that you be  
12 somewhat brief. We have a --

13 MS. DELMATIER: Madam Chair, if I could defer to  
14 George Larson in order to --

15 CHAIRPERSON MOULTON-PATTERSON: You'd rather have  
16 George Larson first?

17 Okay. We'll put George and then Denise and then  
18 John.

19 MR. LARSON: Good morning, Madam Chair, members.  
20 And thank you, Denise.

21 I'm representing Waste Management here this  
22 morning. And first I -- two points I'd like to make.

23 First and foremost, I couldn't be more in  
24 agreement with the need for this Board to have an accurate  
25 estimate -- and anything will be an estimate -- but an



1 accurate estimate of the remaining landfill capacity in  
2 the state, as I think it's a very critical component of  
3 your overview of how the whole system works.

4 I think maybe our concerns are more in the way  
5 we're going about of getting to that mutually agreed-to  
6 end.

7 Secondly, I'd like to express my appreciation to  
8 your staff for the attitude and approach with which they  
9 have heard our concerns and our comments. And I am  
10 adjusting my testimony as I speak, because Bernie  
11 obviously has made some substantive outreach and made some  
12 substantive effort to address our concerns.

13 That being said, I feel it necessary, because  
14 this process is being done over a period of days -- and as  
15 I'm very happy Board Member Peace asked, "What is the  
16 timeframe here?" It is a year to adopt regulations. They  
17 just started in February. I don't see that it's  
18 imperative to move this forward to the next 15-day comment  
19 period until we have those issues that are yet to be  
20 resolved. And I think just that 200 ton versus 20 ton is  
21 a pretty good example of things being in flux and not  
22 everybody on all sides being aware of what the situation  
23 is.

24 We recognize that the permit -- current permit --  
25 and the permit always has asked for capacity -- but we

1 also know that that's a number that is reported at a  
2 specific point in time, and over time takes on less  
3 validity and significance because of the variable rates  
4 that landfills may accept waste and the various components  
5 of waste that have different compaction rates. So I see  
6 the need to have a look at this over time.

7           And I don't think the issue here is whether we  
8 get it out of the permit. But there's a concern on Waste  
9 Management's part that this evaluation over time could  
10 potentially lead to the determination of significant  
11 changes in permits which may lead to the requirement for  
12 revisions; which when a permit needs to be revised,  
13 obviously it needs to be revised.

14           But if I can -- say, by example, if we have a  
15 measurement of capacity that is used in Year 1, let's say,  
16 and that's measured, it's done scientifically, everybody  
17 agrees to it, five years later in conjunction with the  
18 permit review if another evaluation is done, if you can  
19 picture -- and I don't have it graphically -- but there  
20 will be another overlay, another tier of waste that would  
21 have been put on top of that initially-measured volume  
22 that has been consumed or used. The weight of the  
23 additional waste on top is going to further compact that  
24 underlying layer.

25           The result will be is that there's actually going

1 to be additional capacity created by that. I am concerned  
2 that we get into a situation at Year 5 where now we're  
3 evaluating that capacity and the numbers don't add up.  
4 And the reason they don't add up is that compaction  
5 occurred, decomposition occurred, and more waste went into  
6 that than the actual space that was measured as air space.

7 If that leads to some type of revolving door  
8 permit revision process, it would be of concern.

9 Bernie smiles now. And he assured me absolutely  
10 yesterday that that was not the intent. Five years from  
11 now Bernie may not be in the same capacity. He clarified  
12 it. It's in the record. I'd like to have it in the final  
13 statement of reasons that over time these estimates of  
14 capacity won't be used for any other purposes than  
15 measuring capacity at the time that they're measured. I  
16 hope that is the point that came across.

17 I appreciate that Bernie is allowing for  
18 flexibility in measurement practices. Waste Management --  
19 Paul Burns, our engineer, who is responsible for  
20 measurement of capacity in our 43 western region  
21 landfills, brought to the meeting last Thursday Waste  
22 Management's very specific methodology for measuring  
23 capacity. Obviously, it's very important to us because  
24 air space is our business.

25 We were willing to share this with your Board

1 staff, which we did. And the fact that he's now given the  
2 flexibility that we may use this type or an approved type,  
3 which we would assume a licensed engineer would sign off  
4 and stamp under penalty of perjury, of course, as would be  
5 for any type of activity like that, then maybe that  
6 addresses that. Waste-to-cover ratio I think is taken  
7 care of about that.

8 I guess the underlying concern -- and take this  
9 as the general paranoia of industry -- the last point  
10 Bernie made was what will be done with this data. I truly  
11 believe Bernie's statements about the only purposes for  
12 which we intend to use it now and the Board intends to use  
13 it. However, it could be misused at some later date is  
14 still an underlying concern.

15 To the point of whether -- the 15-day regulations  
16 period. I appreciate that we're going to have a workshop  
17 here in the near future. My question is: Is it  
18 imperative to go out to 15-day additional comment with an  
19 action of the Board today? Or can we have these  
20 workshops? Can we get these remaining issues nailed down  
21 and defer action to that point when everyone is  
22 comfortable and the Board is comfortable, the staff are  
23 comfortable, they've heard all the concerns and we worked  
24 out the details, then bring it back to the Board and go  
25 out to the 15-day comment period? I know we can go out to

1 another 15-day comment period. But why add the extra  
2 bureaucratic step in the middle? Let's meet, get our  
3 heads together, continue the attitude that your staff  
4 expressed, get it all nailed down, and then do it at a  
5 future date.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
8 Larson.

9 Denise Delmatier, representing NorCal Waste  
10 Systems, to be followed by John Cupps.

11 Good morning.

12 MS. DELMATIER: Good morning, Madam Chair,  
13 members of the Board. Denise Delmatier with NorCal Waste  
14 Systems.

15 I'd like to make my comments brief and just echo  
16 the comments of Mr. Larson. And one additional comment.

17 The state audit called for -- one of their  
18 specific recommendations called for a report of remaining  
19 landfill capacity to the Board by local agencies, not by  
20 specific private operators. And so it would be our  
21 preference in looking at the specific recommendation by  
22 the state audit to -- prefer to have private operators  
23 report the specific information as determined by the Board  
24 staff as far as the process and the calculations. But  
25 have that information reported to cities and counties and

1 then have the cities and counties report that information  
2 in aggregate rather than by a specific private facility.

3 Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 John Cupps representing the Los Angeles County  
6 Sanitation Districts, followed by Larry Sweetser.

7 MR. CUPPS: Good morning, Madam Chair, members of  
8 the Board.

9 CHAIRPERSON MOULTON-PATTERSON: Good morning, Mr.  
10 Cupps.

11 MR. CUPPS: For the record, my name is John  
12 Cupps. I'm a consultant to the Los Angeles County  
13 Sanitation Districts. The California chapters of SWANA  
14 have also asked me to speak on their behalf.

15 Basically we're comfortable with proceeding along  
16 the lines that staff has outlined. Obviously we do need  
17 to meet with them prior to the 15-day comment period to  
18 kind of work out some of the details of what we believe to  
19 be the agreements. But we're comfortable going on that  
20 basis. Obviously we'll have a chance to comment on during  
21 the 15 days. And if something isn't worked out, you'll  
22 hear from us.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
24 very much, Mr. Cupps.

25 Larry Sweetser representing Rural Counties ESJPA,

1 followed by Scott Smithline.

2 MR. SWEETSER: Good morning, Board members.

3 Larry Sweetser on behalf of the rural counties.

4 I'm going to focus on one issue.

5 And primarily I do want to thank, first of all,  
6 staff's efforts. We have worked with them on a number of  
7 issues. The workshops were productive. They were  
8 helpful. They resolved a number of issues, provided a  
9 number of clarifications.

10 We do have the one remaining concern that we  
11 agreed to disagree on. And that's the requirement -- it's  
12 a whole new requirement for ground or aerial surveys that  
13 are required within every five years.

14 We are proposing that you exempt small rural  
15 landfills -- or landfills accepting less than 20 tons per  
16 day. Our original letter did say 200. Staff basically  
17 told us, "Nice try." And so we brought it down to a lower  
18 number.

19 And the whole point we're trying to make is that  
20 surveys can be very helpful, but they're -- not  
21 necessarily should be mandated in all cases.

22 The justification for the requirement in the  
23 statement of reasons was that the Board wants to find more  
24 precise numbers on statewide remaining capacity. All 21  
25 of our rural counties, which make up 30 percent of the

1 land mass of California, have less than three percent of  
2 the waste stream in California. If you accept a proposal  
3 for less than 20 tons per day, it will be about 40 sites,  
4 like Bernie said, which takes the number down to less than  
5 0.3 percent of the statewide disposal capacity. That's  
6 absolutely no significant statistical impact on that  
7 number.

8           Which brings to the issue on the regional  
9 planning basis. The landfills in the regional areas, they  
10 already know what their capacity is to a reasonable level  
11 of certainty that they need. They still have the  
12 requirement for 15 years of capacity. They monitor it.  
13 They just suddenly don't wake up one day and realize that  
14 they're out of landfill capacity. They know within a  
15 reasonable amount of certainty that they have so much time  
16 left. And it's rare that one rural county will affect the  
17 regional capacity of another county. They just don't  
18 cross the boundaries that way. It's too far apart.

19           We did survey the counties. A number of them are  
20 doing surveys -- aerial surveys. It has been useful for  
21 them. But for some of the counties they haven't done it,  
22 and the cost of \$1,500 to \$5,000 is just not acceptable to  
23 them. They'd rather spend that money on diversion  
24 programs or compliance efforts.

25           And as far as the average of 20 that we were



1 talking about. In some cases you have a landfill  
2 accepting four or five tons per day. CalTrans comes along  
3 one day with a freeway cleanup. They can boost that  
4 tonnage for one day far above the four or five or even 20  
5 tons, sometimes as high as 100 or 200 tons for that one  
6 day. So the counties are putting into their permits as a  
7 maximum tonnage more than the 20 tons, more than they'll  
8 ever accept for one day. So we're asking to spread that  
9 over an average of the 20 tons. That's the reason for an  
10 average. And that's fairly simple to calculate on a --  
11 even on an annual or monthly basis. Total tons divided by  
12 days of operations. So it's not that difficult for us to  
13 do. Calculators are cheap.

14 Two examples I want to bring up. One is Sierra  
15 County. They have eight tons a day coming into their  
16 landfill. They have four transfer stations. That's less  
17 than one garbage truck a day going into that site. Right  
18 now, by their estimate, they have over 30 years -- almost  
19 30 years of capacity in their landfill.

20 So if their estimate is off by plus or minus five  
21 years, it's not going to make any difference. More  
22 accurate numbers aren't going to help that case. They'd  
23 rather spend their money on new equipment for their  
24 landfill that's going to meet the diesel requirements that  
25 are coming up rather than having to pay for a survey that

1 they don't need.

2           The other example is, a number of our counties  
3 have one larger site which they have surveyed. They do  
4 have accurate numbers on that. And then they have smaller  
5 sites accepting one, two, three tons a day; that once  
6 those small ones are full, they're going to convert to  
7 transfer stations no matter when it is, whether it's next  
8 week, next year, ten years from now. So no reason to  
9 survey those smaller sites when they're already doing it  
10 on their regional site.

11           And staff has disagreed with that need, so we've  
12 agreed to disagree with our need for surveys.

13           They have had the counter-proposal of every ten  
14 years instead of five years. Again, that does spread the  
15 cost out. But it doesn't address the core issue of  
16 whether that cost is necessary for them to do or not. So  
17 we still stand by the ability to request to exempt those  
18 smaller sites.

19           So basically if you agree with our proposal to  
20 exempt the less-than-20-tons-per-day sites, we'd request  
21 that you include it in this comment period. Because as we  
22 understand it, it wasn't one of those comments that would  
23 be carried forward to the next 15 days, so we'd need some  
24 proposal from the Board members to conclude that either in  
25 this period or the next one.

1           So we thank you very much.

2           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
3 Sweetser. And I certainly would agree with your point.  
4 As I've said many times, I have visited all 58 counties'  
5 waste facilities. I made a point of that. When I was up  
6 in Trinity, Modoc, Sierra I realized how small these  
7 counties were, how many hats, say, the city manager and on  
8 down wear and how many different things they do. So I  
9 mean it really is -- there really is a difference. And it  
10 took actually visiting them for me to see that.

11          So thank you for bringing that up.

12          MR. SWEETSER: Thank you. And that invite's open  
13 to everybody.

14          Thank you.

15          BOARD MEMBER PEACE: Quick question.

16          How much does an aerial survey cost?

17          MR. SWEETSER: The estimates I got from the  
18 counties that have done it range from \$1,500 to \$5,000,  
19 depending on what you do, how frequently they fly over the  
20 area. If they're flying multiple sites, not just  
21 landfills, other things, the cost is cheaper. But --

22          BOARD MEMBER PEACE: Yeah, because if you spread  
23 the cost over several of the rural landfills, it would --

24          MR. SWEETSER: But many of these sites are so  
25 remote, nobody else has a need to. So I could easily see

1 \$4,000 or \$5,000 for that survey, out of very tight  
2 budgets. They just don't have that money to spread  
3 around.

4 BOARD MEMBER PEACE: Okay. Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 Scott Smithline, Californians Against Waste,  
7 followed by the last speaker, Chuck Helget.

8 MR. SMITHLINE: Madam Chair, Board members.

9 Scott Smithline, Californians Against Waste.

10 I just want to briefly state our support for the  
11 proposed revised Solid Waste Permit Application regarding  
12 landfill capacity reporting. As long as we are relying on  
13 landfills so heavily, up to half of our disposal every  
14 year, obviously accurate capacity reporting is critical.  
15 It seems that the staff has really gone to some lengths to  
16 meet the concerns of the stakeholders.

17 We believe that this information be regularly and  
18 consistently reported is not only logical but consistent  
19 with the key provisions of AB 939.

20 Thank you.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Chuck Helget representing Allied Waste.

23 MR. HELGET: Good morning, Madam Chairman,  
24 members of the Committee. Chuck Helget representing  
25 Allied Waste.

1           Again, we agree with the concerns expressed by  
2 NorCal and Waste Management in their testimony. I won't  
3 repeat those.

4           It appears also that staff is definitely striving  
5 to come to a compromise in these regulations. We commend  
6 them for that.

7           I will only raise one point. That point is  
8 that -- a point that was originally raised by staff in  
9 their testimony, that this information on capacity is  
10 already being presented in the disposal reporting system.  
11 And the concern that staff has expressed is that they  
12 don't have an appropriate or justifiable or a methodology  
13 that they're comfortable with. I would submit that  
14 possibly we should be looking at that system as well  
15 rather than creating now a duplicative system in the  
16 permit application process, which is already quite  
17 cumbersome.

18           So a question: How are these regulations --  
19 proposed regulations going to fit with the disposal  
20 reporting system? With that I think that we should -- I  
21 would recommend to the Board that the Board delay the  
22 regulations, let's have our workshops, let's talk about  
23 these issues. And you still have plenty of time to move  
24 forward with the regulations.

25           Thank you.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

2 Helget.

3 Mr. Paparian.

4 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam

5 Chair.

6 As I'm understanding what the staff is  
7 suggesting, you are suggesting a workshop, possible  
8 changes based on that workshop, to go in then to a  
9 revision of this proposal. At that point, after the  
10 workshop, after the revision you'd have the 15-day comment  
11 period. And then we'd come back here again at that point,  
12 see where we're at, you know, we're getting any closer to  
13 agreement or do we just have to make a decision on the  
14 thing.

15 I mean I'm comfortable with that. I think it's,  
16 you know, inclusive. I know some of my friends in the  
17 environmental community sometimes they'd grow overly  
18 inclusive of some of the workshops with the stakeholders.  
19 But I think it's appropriate in this case. And I think  
20 that it sounds like you're doing most of what's being  
21 asked for process-wise. You're just not adding the step  
22 of an additional Board meeting in between the workshop and  
23 then going out for the additional 15-day comment period.

24 On the 20 tons a day, it sound like maybe you  
25 need to work on that a little bit and -- you know, you may

1 even need to come up with some options. You know, I don't  
2 know if there's a 20 ton a day facility that has a huge,  
3 huge remaining capacity. But, you know, maybe if there  
4 was, you'd want that looked at somehow. But I think  
5 there's some sympathy, and I share the sympathy, for some  
6 relief for facilities that are so small.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 DEPUTY DIRECTOR LEVENSON: Mr. Paparian, you  
9 certainly characterized staff's desire for direction from  
10 the Board correctly, to go out and work with the  
11 stakeholders and revise these, go out for a 15-day, and  
12 then come back to the Board so we don't have an additional  
13 item before you in the interim.

14 Regarding the exemption, we have put in options  
15 in other regulatory packages. And if you would like, and  
16 I think that's the direction, we can put in two or three  
17 different options in that particular section and get  
18 comments on that during the 15-day --

19 BOARD MEMBER PAPARIAN: Yeah, it may be that you  
20 reach some understanding and things work out. But I think  
21 we're -- we're focusing, it seems, on 20 tons a day. I  
22 think, Larry, that goes back -- I think you mentioned 20  
23 tons a day back in April of last year when this came  
24 before the P&E Committee.

25 So, anyway -- and I think that's an appropriate

1 number to work with. See if you can work it out. And if  
2 you can't, give us the options.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington,  
4 then Ms. Peace.

5 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

6 George Larson, come back -- can you come up here  
7 for a second?

8 With the explanation that was given by Mr.  
9 Paparian with staff in terms of this going out for 15  
10 days, what's your -- now, what's your issue with it, why  
11 you don't want it to go out for 15 days before the  
12 workshops are done?

13 MR. LARSON: I recognize that's clearly an  
14 option, and that is the action that is before the Board  
15 today.

16 My point was that if we were to hold the work --  
17 if we were to defer going out to that 15-day workshop and  
18 hold the interested parties meetings that staff have  
19 already committed to hold, then some of the uncertainties  
20 and loose strings that are being raised today -- and I go  
21 back to the small landfill or the rural as an example --  
22 we could get all those things nailed down, and then I  
23 would hope, and I would say certainly with our commitment,  
24 that we would move forward and support wholly the  
25 permit -- I mean the regulations that would go out when



1 we're all on the same sheet.

2 BOARD MEMBER WASHINGTON: Okay. So you just want  
3 to do it before the 15-day clock starts?

4 MR. LARSON: Well, let's just have the workshops  
5 and get them all -- all those issues ironed out and then  
6 go out to the 15-day --

7 BOARD MEMBER WASHINGTON: And then what's wrong  
8 with that, Howard?

9 DEPUTY DIRECTOR LEVENSON: That's exactly what  
10 we're proposing, which is to have a meeting in the next --

11 MR. LARSON: That's what I thought.

12 DEPUTY DIRECTOR LEVENSON: -- week or so with the  
13 stakeholders to work out as many of the issues as we can,  
14 and then immediately revise the current draft regulations  
15 and then send those out upon your approval today for a  
16 15-day comment.

17 The one difference that I think between what  
18 we're suggesting and Mr. Larson is saying is that we would  
19 not come back to the Board in between with the newly  
20 revised text for your approval to go out for a 15-day.  
21 You would just direct us to go ahead and do that, get as  
22 many issues worked out as we can, and then go out for a  
23 15-day in the next -- as soon as we can. And that would  
24 not guarantee that all the issues would be worked out.  
25 And those that could not be worked out certainly would be

1 brought back to you.

2 BOARD MEMBER PEACE: And if things weren't worked  
3 out, you could come back for another 15 --

4 DEPUTY DIRECTOR LEVENSON: We have to. We have  
5 to report back to you at the end of the 15-day comment  
6 period as to what comments were received and what  
7 unresolved issues remain. And then we might need another  
8 15-day comment period after that.

9 BOARD MEMBER PEACE: We could keep going until  
10 February 2005?

11 DEPUTY DIRECTOR LEVENSON: Till we run up against  
12 the one year or towards the one-year deadline.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.  
14 Washington hadn't finished.

15 BOARD MEMBER WASHINGTON: Thank you.

16 So, Mr. Larson, what's wrong with that approach  
17 on this?

18 MR. LARSON: Well, I guess the only thing I could  
19 observe is that to take that action today, to go out to  
20 15-day comment, presumes that we'll get all those issues  
21 resolved. I would rather get the issues all resolved and  
22 then make the decision -- the Board make the decision to  
23 go out to 15-day comment. But it may not be -- perhaps we  
24 end up at the same place.

25 BOARD MEMBER WASHINGTON: Yeah.

1 All right. Thank you.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

3 Ms. Peace.

4 BOARD MEMBER WASHINGTON: I hope so.

5 BOARD MEMBER PEACE: I agree with what Mr.  
6 Paparian has said. And I also would like you to consider  
7 what the rural counties are saying and look at that 20  
8 tons per day. Because when you consider they're only .3  
9 percent of the whole statewide disposal volume, I think  
10 that's, you know, really nitpicking there.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. I think  
12 you've heard the direction. We'd like you to hold the  
13 workshop, go out for the 15-day as you proposed.  
14 Certainly we're sympathetic with rural counties and hope  
15 you'll work with them. Okay?

16 DEPUTY DIRECTOR LEVENSON: Thank you. That's  
17 quite clear.

18 CHAIRPERSON MOULTON-PATTERSON: Okay. With that,  
19 we'll go to Item No. 19.

20 DEPUTY DIRECTOR LEVENSON: Both Items 19 and 20  
21 should be very quick.

22 CHAIRPERSON MOULTON-PATTERSON: Okay.

23 DEPUTY DIRECTOR LEVENSON: Item 19 is  
24 consideration of the grant awards for the Farm and Ranch  
25 Solid Waste Cleanup and Abatement Grant Program for this

1 fiscal year.

2 Normally Carla Repucci would make that  
3 presentation, but she has quite a bad cold. So Scott  
4 Walker's going to stand in her place -- or sit in her  
5 place.

6 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH  
7 MANAGER WALKER: Thank you. Scott Walker, Manager of the  
8 Remediation Closure and Technical Services Branch. And I  
9 promised Carla that I would try not to blow it.

10 This item represents consideration of the award  
11 of two applications -- two grant applications for the Farm  
12 and Ranch Solid Waste Cleanup and Abatement Program.

13 There is \$59,694 available for the remainder of  
14 this fiscal year. The amount requested in these  
15 applications -- these two applications is \$57,137 and  
16 represents the last award of this fiscal year.

17 There would be \$2,557 left in the fund, which at  
18 the beginning of the year was a million dollars available.  
19 So Carla's done an excellent job in increasing utilization  
20 to this program. It's the fifth year of the program.  
21 First year we've ever been overutilized.

22 Four applications were received this quarter.  
23 All four were scored; received passing scores. There was  
24 not enough money for two of the applications. But Carla  
25 did work with those applicants, and they have been

1 notified and they are agreeable to resubmitting next year.

2 The two applications recommended are from the  
3 Mendocino Resource Conservation District and the Tehachapi  
4 Resource Conservation District.

5 In conclusion, staff recommends the Board adopt  
6 Resolution 2004-151, authorizing the award of up to  
7 \$57,137 for the grant applications from the Mendocino  
8 County Resource Conservation District and Tehachapi  
9 Resource Conservation District.

10 And that concludes our presentation. And we're  
11 happy to answer any questions.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. I'm going  
13 to be calling on Mr. Paparian. But before I do that, Mr.  
14 Leary, could we have a summary -- I meant to ask  
15 yesterday, and I didn't -- for all grants and loans given  
16 for this fiscal year? I'd like to see that.

17 EXECUTIVE DIRECTOR LEARY: Certainly, Madam  
18 Chair. I'll prepare a memo to the full Board in the next  
19 couple of days.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you. I  
21 think that would be helpful.

22 Okay. Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

24 You can tell Carla you did a good job on her  
25 behalf.

1 (Laughter.)

2 BOARD MEMBER PAPARIAN: I'd like to move  
3 Resolution 2004-151 related to grant awards for the Farm  
4 and Ranch Solid Waste Cleanup and Abatement Program FY  
5 2003-2004.

6 BOARD MEMBER WASHINGTON: Second.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
8 motion by Mr. Paparian, seconded by Mr. Washington, to  
9 approve Resolution 2004-151.

10 Without objection, we'll substitute the previous  
11 roll call and go right to 20.

12 DEPUTY DIRECTOR LEVENSON: Yeah, Item 20 is  
13 consideration of the contractor for the Environmental  
14 Laboratory and Sampling Services Contract Fiscal Year  
15 '03-'04 out of the IWMA Mandatory Services Contracts.

16 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH  
17 MANAGER WALKER: Scott Walker, Enforcement Division.

18 The \$75,000 was identified through Mandatory  
19 Services Contract for Fiscal Year 2003-2004 for an  
20 environmental laboratory services contract.

21 This contract provides specialized laboratory  
22 services which supports solid waste site investigation and  
23 enforcement activities. It also can assist us in  
24 diversion activities such as emissions testing at compost  
25 facilities.

1           The Board has awarded -- and we've implemented  
2 four previous contracts since '91. And the current  
3 contract expires May 15th, and will be fully utilized.

4           To secure a contractor for these services staff  
5 conducted the invitation for bid process in accordance  
6 with State requirements. The lowest responsive bidder is  
7 ExcelChem Environmental Laboratories.

8           In conclusion, staff recommend adoption of  
9 Resolution 2004-152, to award the contract for  
10 Environmental and Laboratory Services to ExcelChem  
11 Environmental Laboratories.

12           That concludes staff's presentation.

13           CHAIRPERSON MOULTON-PATTERSON: Thank you.

14           Mr. Paparian.

15           BOARD MEMBER PAPARIAN: Thank you Madam Chair.

16           I'd like to move Resolution 2004-152 related to  
17 the contractor for the Environmental Laboratory and  
18 Sampling Services Contract FY 2003-2004.

19           CHAIRPERSON MOULTON-PATTERSON: I'll second.

20           Motion by Paparian, seconded by  
21 Moulton-Patterson, to approve Resolution 2004-152.

22           Please substitute the previous roll call.

23           My intent now is to take a 15-minute break. Then  
24 we'll come back and hear 21, 24 27, and 30. And we'll  
25 just be taking a late lunch.

1           So if that's -- I think all my colleagues are in  
2 agreement with that.

3           So right now we'll take a short break.

4           (Thereupon a recess was taken.)

5           CHAIRPERSON MOULTON-PATTERSON: Ex partes.

6           Ms. Piece.

7           BOARD MEMBER PEACE: Yes, I'm going to ex parte  
8 actually the dinner I had last night after the Trash Bash  
9 with the San Diego County delegation.

10          CHAIRPERSON MOULTON-PATTERSON: Thank you.

11          I had none.

12          Mr. Paparian.

13          BOARD MEMBER PAPARIAN: Thank you.

14          I talked to George Larson and another gentleman  
15 from Waste Management regarding Agenda Item 21. And then  
16 I also had some follow-up conversations with Denise  
17 Delmatier and John Cupps about the item we just finished  
18 before the break.

19          CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.  
20 Washington.

21          BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

22          I have the same ones that Mr. Paparian has,  
23 Denise Delmatier, John Cupps, and George Larson. As well  
24 as, like Ms. Peace, I want to ex parte the whole crew from  
25 last night. I welcomed everybody from San Diego and took



1 over the program and all that stuff.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. We're  
3 going to take up Item 30 right now, and then we'll go to  
4 21.

5 DEPUTY DIRECTOR LEVENSON: Before we get to Item  
6 30, Madam Chair, I just want to note that it's our Carroll  
7 Mortensen's birthday today.

8 CHAIRPERSON MOULTON-PATTERSON: Oh, my goodness.  
9 Should we sing?

10 MS. MORTENSEN: No, that's okay.

11 DEPUTY DIRECTOR LEVENSON: Sing or give her a  
12 hard time.

13 CHAIRPERSON MOULTON-PATTERSON: Happy Birthday.

14 Oh, I think we should sing if I don't have to  
15 lead. I couldn't get into the Sixth Grade Glee Club.

16 (Laughter.)

17 CHAIRPERSON MOULTON-PATTERSON: Oh, well, it is a  
18 sorry group.

19 Anyway, Carroll, happy birthday.

20 BOARD MEMBER PAPARIAN: Tell these southern  
21 Californians who your favorite basketball team is.

22 CHAIRPERSON MOULTON-PATTERSON: This isn't a  
23 decade birthday, is it?

24 MS. MORTENSEN: No, no, no.

25 (Laughter.)

1 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

2 Okay. Bonnie knows all about those decade  
3 birthdays.

4 (Laughter.)

5 CHAIRPERSON MOULTON-PATTERSON: Didn't know what  
6 you walked into.

7 Item 30.

8 Excuse me. We'll get serious now.

9 DEPUTY DIRECTOR SCHIAVO: Oh, that's a tough  
10 follow-up.

11 All right. Now we'll be serious. It's going to  
12 be kind of difficult.

13 Pat Schiavo, Diversion, Planning and Local  
14 Assistance Division.

15 And No. 30 is an overview of the final report and  
16 findings from the review of sampling methods for  
17 extrapolated new base-year generation studies.

18 And this item has had a long history. And  
19 hopefully this will be the culmination of our findings  
20 regarding looking at extrapolation versus more simpler  
21 methods.

22 And Marshall Graham from our staff will make  
23 this presentation.

24 CHAIRPERSON MOULTON-PATTERSON: Good morning.

25 (Thereupon an overhead presentation was

1 Presented as follows.)

2 MS. GRAHAM: Good morning, Madam Chair, Board  
3 members.

4 --o0o--

5 MS. GRAHAM: I want to start today's  
6 presentation, which is a brief review of the two types or  
7 two categories of new base years in which staff place new  
8 base-year studies.

9 And the first is non-extrapolated. And in  
10 non-extrapolated studies, the study design typically  
11 encompasses the jurisdiction looking at the diversion  
12 tonnage associated with the programs -- waste reduction  
13 programs that it runs, like recycling, curbside recycling,  
14 drop-off and collection programs, transfer station and  
15 landfill salvage and the like.

16 And then typically they'll also go out to their  
17 local businesses and conduct studies or surveys to  
18 estimate the diversion tonnage from the local business  
19 programs, like collecting cardboard, baling cardboard and  
20 sending it back to a corporate office or corporate center.

21 And all this tonnage would then be compiled. And  
22 that's what's used in their diversion rate calculation.

23 Now, an extrapolated study is very similar. But  
24 when they're looking at their business sector, they  
25 actually take a sample of the businesses within the

1 jurisdiction and again conduct studies or surveys to  
2 estimate per business the diversion associated with the  
3 businesses' waste reduction programs. And what they do  
4 then is use the various methodologies to multiply that  
5 diversion estimate across all of the businesses or all the  
6 employees within the jurisdiction.

7 --o0o--

8 MS. GRAHAM: Since April of 1998, Board staff  
9 have reviewed 184 new base-year studies. Of these 143  
10 were non-extrapolated studies and 41 were extrapolated.

11 --o0o--

12 MS. GRAHAM: During the September 2000 Board  
13 meeting the Board strongly questioned the validity of a  
14 number of the new base-year studies, particularly those  
15 using an extrapolated methodology. During subsequent  
16 Board meetings, the Board members discussed the potential  
17 for extrapolated methodologies to overestimate diversion  
18 rates.

19 As a result, Board staff convened a working group  
20 comprised of both internal and external stakeholders. And  
21 this working group met at various times over a period of  
22 months and discussed and addressed the different sampling  
23 methodologies that were used in extrapolated studies, the  
24 appropriate sample sizes that should be included in these  
25 types of studies, as well as what types of activities

1 should be and could be quantified for these studies.

2 Board staff also took the opportunity to perform  
3 a number of comparative analyses using diversion data from  
4 both extrapolated and non-extrapolated studies and  
5 presented the findings at the November 2002 Committee  
6 meeting.

7 --o0o--

8 MS. GRAHAM: Board staff found that when looking  
9 at extrapolated and non-extrapolated studies, that with  
10 respect to the pounds per person per day extrapolated  
11 methodologies were on an average of 79 percent higher for  
12 extrapolated studies than non-extrapolated; overall  
13 diversion rates calculated based on extrapolated  
14 methodologies were significantly higher than  
15 non-extrapolated methodologies; the average diversion rate  
16 from studies using extrapolation methodology was 53  
17 percent, while non-extrapolated methodologies were on the  
18 average 41 percent; source reduction claims in  
19 extrapolated studies were on the average of 300 percent  
20 higher compared to non-extrapolated studies.

21 --o0o--

22 MS. GRAHAM: Board staff addressed these accuracy  
23 issues in three different ways:

24 First Board staff developed the Base Year  
25 Modification Certification Request Form. This provided a

1 standardization for the data that is submitted in these  
2 new base-year studies and it also allows Board staff to  
3 make these kind of comparative analyses in a much more  
4 effective manner.

5 Board staff also began, at this point, to verify  
6 the submitted survey data or the study data for both  
7 extrapolated and non-extrapolated studies.

8 --o0o--

9 MS. GRAHAM: Additionally, due to the nature of  
10 the statistics used in these extrapolated studies, the  
11 Board pursued an independent third-party review of  
12 extrapolated new base-year methodologies to provide the  
13 Board with an analysis and recommendations with respect to  
14 improving the accuracy of these types of studies. In  
15 December 2001, the Board entered into an interagency  
16 agreement to provide this analysis. The contracted  
17 statistical consultants reviewed 20 studies submitted to  
18 the Board to evaluate the accuracy of these methodologies  
19 based on acceptable and sound statistical principles.

20 This final report, which is provided as  
21 Attachment 1 of this agenda item, represents the  
22 statisticians' analyses, findings and recommendations.

23 --o0o--

24 MS. GRAHAM: Due to the lack of study information  
25 and poor quality data for 18 out of the 20 studies

1 reviewed, a complete statistical analysis and evaluation  
2 of the various extrapolation methodologies was not  
3 feasible. As a result, the recommendations in the report  
4 focus on the impact of poor quality data or the lack of  
5 study data with respect to the overall adequacy of these  
6 types of studies and how the Board can improve  
7 extrapolated methodologies.

8 --o0o--

9 MS. GRAHAM: The findings in the final report  
10 address the impact of errors relating to study design,  
11 sampling errors, and other technical data components of  
12 nonresidential diversion surveys.

13 --o0o--

14 MS. GRAHAM: With respect to study design, in  
15 order to demonstrate the appropriateness of the selected  
16 study design, jurisdictions really should outline the  
17 assumptions that they make in their study design and  
18 ultimately use the data from their study to test the  
19 validity of these.

20 Of the studies received, however, none enumerated  
21 these assumptions. Furthermore, there was no information  
22 or data indicating that any such assumptions were tested  
23 using the study data upon completion of the study.

24 Submitting accurate data for the basis of  
25 selection of samples in a study is needed to fully

1 evaluate the sampling methodology. Obviously Board staff  
2 cannot fully evaluate something for which we don't have  
3 the information.

4           However, most of the extrapolated new base-year  
5 studies were not approved by Board staff as submitted, in  
6 other words, as extrapolated study methodologies, due to  
7 the lack of information regarding the basis for the sample  
8 selection or as a result of specific sampling errors. For  
9 example, most of the studies evaluated did not include  
10 information regarding the process through which a random  
11 sampling of the businesses was selected, even though the  
12 samples were described in their documentation as being  
13 random.

14                               --o0o--

15           MS. GRAHAM: A number of other technical errors  
16 were observed in these studies, including nonresponse.  
17 Since the effect of businesses that don't participate in  
18 the diversion survey is unknown, it's really important for  
19 jurisdictions to document how they address nonrespondents  
20 and how nonrespondents are taken into account in the  
21 diversion rate calculation.

22           However, all but one of the new base-year studies  
23 reviewed failed to document which businesses didn't  
24 respond and, again, how these were addressed in the  
25 calculation.



1           Another accuracy issue identified in the studies  
2 reviewed were outliers. Outliers really should --  
3 outliers are businesses that do not have -- that stand  
4 out, I guess, in terms of diversion or employees or  
5 diversion practices from other businesses. And  
6 jurisdictions really need to include in their analysis  
7 how -- whether or not there are any outliers and whether  
8 or not they can justify including those outliers in their  
9 extrapolation calculation.

10           And in the review of these studies, most of the  
11 jurisdictions really did make an effort to identify the  
12 outliers. However, most of them limited their analysis to  
13 one variable opposed to all the variables in the study  
14 design.

15           Lastly, another significant issue in reviewing  
16 these studies was the general lack of access to study  
17 data. For most of the studies there was significant  
18 difficulty in gaining access to the study data for Board  
19 staff's review. For example, the sample frame or  
20 population, the specific steps taken to select the sample  
21 from the sample frame, and access to electronic data.

22           Access to study data again is critical in Board  
23 staff's ability to assess the quality and the accuracy of  
24 the data. Again, we can't analyze something -- or  
25 evaluate something we don't have.

1 --o0o--

2 MS. GRAHAM: Based on these issues, the issues  
3 addressed in the final report, Board staff continue to  
4 analyze study data from extrapolated studies submitted to  
5 the Board.

6 --o0o--

7 MS. GRAHAM: At the May Board meeting last year  
8 staff presented a case study from an extrapolated new base  
9 year. And the data presented supported the recommendation  
10 that jurisdictions really make an effort to target their  
11 largest ten or top ten businesses first when they're  
12 looking at estimating nonresidential diversion.

13 And one of the findings from this case study was  
14 that the commercial business diversion comprised  
15 approximately 38 percent of the total jurisdiction's  
16 diversion.

17 --o0o--

18 MS. GRAHAM: Additionally, Board staff found that  
19 using the extrapolation methodology the jurisdiction  
20 sampled 330 of its nearly 76 -- yeah, 333 of its 7,600  
21 businesses. However, by targeting the top ten businesses,  
22 the jurisdiction very likely could have captured 50  
23 percent of the total business diversion. Similarly, by  
24 targeting the top 30 businesses, the jurisdiction very  
25 well could have captured up to 80 percent of the total

1 business sector's diversion.

2 As you can see, by targeting 30 to 50 percent --  
3 30 to 50 of the largest businesses rather than, say, 333,  
4 the city could really have saved resources and still  
5 achieved the estimate they were looking for in terms of  
6 diversion.

7 --o0o--

8 MS. GRAHAM: Board staff also took the  
9 opportunity to look at 35 extrapolated new base-year  
10 studies to assess the impact again of looking first at the  
11 top ten businesses compared to all the surveyed businesses  
12 in the extrapolated study; and, in that, found that 94  
13 percent of the jurisdictions were able by targeting the  
14 top ten to capture over 50 percent of their business  
15 diversion. And 60 percent of these jurisdictions were  
16 able to capture 80 percent or more. And then 37 percent  
17 of the jurisdictions were able to nearly capture all, 90  
18 percent or more of the total diversion in the top ten.

19 --o0o--

20 MS. GRAHAM: Similarly, the findings from this  
21 statistical review of extrapolated new base-year studies  
22 are consistent with Board staff's recommendations for  
23 jurisdictions to first consider surveying their largest  
24 businesses to measure the diversion from their  
25 nonresidential sector.

1 --o0o--

2 MS. GRAHAM: Specifically, the statisticians  
3 found that for most of the studies reviewed, the  
4 jurisdictions would have been better off targeting their  
5 largest businesses and submitting a non-extrapolated  
6 base-year study. For the number of businesses that they  
7 surveyed, jurisdictions could have captured most of the  
8 business diversion without having to address the problems  
9 that I've mentioned associated with sample selection,  
10 nonresponse or outliers.

11 --o0o--

12 MS. GRAHAM: Based on the findings from the final  
13 report as well as the recommendations, Board staff -- so  
14 sorry -- Board staff will be updating its Base Year  
15 Modification Request Certification Form and all the  
16 related instructions to capture the additional information  
17 necessary to address these accuracy issues.

18 Board staff will also be updating the diversion  
19 study guide to explicitly underscore the need to document  
20 these key components in study design and implementation.

21 --o0o--

22 MS. GRAHAM: Board staff will also be developing  
23 an electronic web-based reporting format for future new  
24 base-year studies.

25 --o0o--

1 MS. GRAHAM: Of course Board staff will continue  
2 to assist jurisdictions with future new base-year studies.  
3 And although the complexity of nonresidential sectors in  
4 some of the state's largest jurisdictions may warrant  
5 consideration of an extrapolated new base-year study  
6 design, most jurisdictions really can adequately estimate  
7 their diversion tonnage by focusing on their top 10 to 30  
8 businesses.

9 --o0o--

10 MS. GRAHAM: In summary, Board staff were unable  
11 to perform a complete statistical review of 18 of the 20  
12 studies due to insufficient data.

13 The findings also support again the value in  
14 targeting the top ten. And this point, in conclusion, is  
15 very well illustrated by a study that was just submitted  
16 for Board review. And it includes an extrapolated study.  
17 And it includes surveys of over 300 businesses, with a  
18 gain of roughly only one percent in doing an extrapolated  
19 study over a non-extrapolated study. Again, this example  
20 demonstrates the value of maximizing the efficiencies in  
21 developing and executing a new base-year study.

22 This concludes my presentation. And at this time  
23 I'm happy to address any questions you may have.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
25 much, as it's a very, very good presentation.

1           Mr. Paparian.

2           BOARD MEMBER PAPARIAN: Yeah, I think -- I mean I  
3 think this helps point out some of the issues and problems  
4 with the extrapolation studies.

5           So is there any reason why we want to continue to  
6 allow extrapolation studies? Should we just -- I mean  
7 we've talked about this for the last few years, with a lot  
8 of discomfort from the Board about extrapolation.

9           DEPUTY DIRECTOR SCHIAVO: The only potential  
10 reason is there may be some jurisdiction out there,  
11 because they vary so much, that they could benefit --  
12 possibly benefit, although to date we haven't really seen  
13 that circumstance. But because there's 500 jurisdictions  
14 out there, that's the only reason. I mean it's your call  
15 in the end.

16           And I think one of the important things I'd like  
17 to highlight, does not only non-extrapolation, you know,  
18 seem to give you better results, but it's much less  
19 expensive. And you could take the money saved from that  
20 and apply it to program implementation and other issues.  
21 I think that's a real key finding, is that cost savings.  
22 But as far as, is there an -- you know, again, there may  
23 be something out there where there's a benefit and -- I  
24 don't know. I haven't seen it yet. So --

25           BOARD MEMBER PAPARIAN: Yeah, but we're not able

1 to identify it. I'm wondering whether we should just go  
2 down the path of, you know, shutting down extrapolation  
3 studies and have everybody on a consistent methodology  
4 throughout the state.

5 CHAIRPERSON MOULTON-PATTERSON: Well, it's  
6 something to think about. I certainly wouldn't want to do  
7 it this meeting, you know.

8 BOARD MEMBER PAPARIAN: Yeah, today's not the  
9 action item. But I think moving in that direction would  
10 be -- you know, with everything that we continue to hear,  
11 it seems like it would be the right way to go, to stop the  
12 extrapolation studies.

13 DEPUTY DIRECTOR SCHIAVO: We could bring forward  
14 an item probably for July.

15 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace. And  
16 then we have a public speaker.

17 BOARD MEMBER PEACE: I assume that you're  
18 already -- when you talk to jurisdictions about doing  
19 their base-year studies, that you stress to them that they  
20 can save money by not doing the extrapolations and --

21 DEPUTY DIRECTOR SCHIAVO: Yes, we do. As soon as  
22 we're aware they're going to be performing a study, we try  
23 to provide them with the benefits and information as we  
24 found it in the study.

25 BOARD MEMBER PEACE: So would it be beneficial to

1 you to be able to say that they're not allowed to do  
2 extrapolation?

3 DEPUTY DIRECTOR SCHIAVO: Well, we can't, at this  
4 point, say that. It'd have to be a Board --

5 BOARD MEMBER PEACE: Right. But I mean is that  
6 something -- the direction you'd like to go?

7 DEPUTY DIRECTOR SCHIAVO: Again, ultimately -- I  
8 mean we'll bring forward an item that will lay out the  
9 data as we see it. And, again, as we -- unless we hear  
10 some benefits or where it has benefited somebody, it's  
11 hard to promote it. That's for sure. I mean we have yet  
12 to hear where it has been a benefit. We've heard going  
13 into a study where it has the potential of being a  
14 benefit. But then in the end we just haven't seen it.  
15 And, again, it's limited data. You know, it's less than  
16 ten percent of the whole population out there. So that's  
17 the only reason I'm being somewhat cautious with it.

18 BOARD MEMBER PEACE: Okay. Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 Sean Edgar from CRRC.

21 MR. EDGAR: Good morning -- or good afternoon,  
22 Madam Chair and Board members. Sean Edgar on behalf of  
23 the California Refuse Removal Council.

24 Just wanted to provide a brief comment and put  
25 today's revelations from the staff report in a little bit



1 of context. I guess the central issue is -- we've now  
2 taken some statistical analysis over the last couple of  
3 years here to actually zero in on source reduction and  
4 other things and over the key issue of who takes credit  
5 for what and how do we calculate credit for diversion  
6 efforts.

7           And I would submit that this Board deserves the  
8 credit for having protected the integrity of 939. Madam  
9 Chair, it was under your leadership in 2001 and under your  
10 signature that the outrageous claims of hundreds of  
11 percent of source reduction where temporarily the brakes  
12 were put on. We had a brief moratorium period where this  
13 Board, under your leadership and the other Board members,  
14 methodically went through and actually tried to decode for  
15 jurisdictions what was fact and what was fiction. And  
16 it's a credit to Mr. Schiavo, Cara Morgan and your staff  
17 here for having gone through this process and giving this  
18 revealing information today.

19           But I would submit that your Board deserves the  
20 credit, because we looked out on that back in 2001 when we  
21 had waste generation inflation, we had a lot things there  
22 where, you know, the federal government talked about 11  
23 percent source reduction, somewhere around there, and your  
24 staff just reported somewhere around upwards of 300  
25 percent source reduction. And it really comes down to the

1 measured methodical leadership of this Board to be able to  
2 separate the fact from fiction, be able to protect real  
3 programs that are making real diversion efforts, and to  
4 achieve compliance via programs and not just calculators.

5           So I appreciate the Board's efforts and wanted to  
6 just give credit where credit is due. And no matter what  
7 the -- how you move forward on the issue of whether  
8 extrapolation may or may not be continued in the future, I  
9 think that there's a lot of vindication after the  
10 statistical work a couple years -- that started a couple  
11 years ago to come to a conclusion that validates real  
12 programs and this Board's leadership.

13           So I wanted to say thank you.

14           CHAIRPERSON MOULTON-PATTERSON: Thank you for  
15 noting that.

16           Okay. That ends Item 30.

17           And we have three items left, 21, which has a  
18 number of speakers, we'll go to next; then 24; and we'll  
19 conclude with 27.

20           No. 21.

21           DEPUTY DIRECTOR LEVENSON: Item 21, Madam Chair,  
22 is a discussion and request for rulemaking direction to  
23 formally notice the proposed regulations for the RCRA,  
24 Resource Conversation Recovery Act, Subtitle D Program  
25 Research, Development, and Demonstration Permits.

1           You'll hear the term "RD&D" quite a bit today.

2   It's the acronym for Research, Development, and  
3   Demonstration within the Subtitle D regulations.

4           Scott Walker will be making the presentation.

5   And as you indicated, we are aware of a number of speakers  
6   on this topic.

7           REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

8   MANAGER WALKER: Thank you. Scott Walker, Permitting and  
9   Enforcement Division.

10           (Thereupon an overhead presentation was  
11           Presented as follows.)

12           REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

13   MANAGER WALKER: Point out that we have Joe Mello  
14   representing State Water Resources Control Board staff in  
15   the audience to assist in questions.

16                               --oOo--

17           REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

18   MANAGER WALKER: U.S. EPA drafted a rule for research --  
19   or for RD&D permits back in June of 2002. And a final  
20   rule was issued March 22nd, 2004, and it became effective  
21   April 21st, 2004. This rule allows approved Subtitle D  
22   program states to provide temporary variances from some  
23   parts of 40 CFR 258 criteria -- Subtitle D criteria to  
24   promote innovative municipal solid waste landfill  
25   technologies.

1           There's been some related Board agenda items on  
2 this back in April of 2002. We presented a discussion  
3 item on bioreactor landfills in the Yolo County Project.  
4 And then the Permitting & Enforcement Committee conducted  
5 a field trip workshop in October of '03.

6           In addition, staff have attended and participated  
7 in numerous meetings and conferences on bioreactor  
8 landfills with U.S. EPA; ASTSWMO, Association of State and  
9 Territorial Waste Management Officials; and also various  
10 conferences including Solid Waste Association of North  
11 America.

12           One thing I'd like to point out is that the RD&D  
13 authority has already allowed for hazardous waste disposal  
14 facilities in Subtitle C and DTSC regulations.

15                               --o0o--

16           REMEDICATION CLOSURE AND TECHNICAL SERVICES BRANCH  
17 MANAGER WALKER: The specific criteria for which RD&D  
18 permit variance would be allowed for is defined in the  
19 final rule of U.S. EPA. And there's three specific areas:

20           First area is run-on control systems. And the  
21 corresponding state standard under Title 27 State  
22 Standards is listed in the slide 2365, which is the State  
23 Water Board standard and is the State Water Board's lead  
24 on that standard. There's standards much more  
25 prescriptive. And then we have a drainage control

1 standard in 2820.

2           The second area is liquids restrictions. And  
3 this is the prohibition in the federal rule on adding bulk  
4 liquids and liquid wastes from outside the waste  
5 management unit. And the state has these regulations  
6 entirely within State Water Resources Control Board  
7 regulations in Title 27. Those two sections incorporated  
8 by reference the federal prohibition and add other state  
9 restrictions on liquids in landfills.

10           The third area is the final cover standard in the  
11 federal rule. And, again, similar to run-on control, the  
12 State Water Board is the lead in their standard 27 CCR  
13 Section 21090. And the Waste Board has a final cover  
14 standard in Section 21140, but the State Board is the lead  
15 on that standard. But we share on compliance.

16           Examples of the technologies where the  
17 variance -- these types of variances would be required to  
18 implement: Clearly bioreactor landfills. This is where  
19 liquids are added to accelerate and control the  
20 decomposition process in a landfill. And then there's  
21 some other areas in final cover like Phytocovers. These  
22 are systems by which trees like Poplar trees are used in  
23 lieu of an engineered barrier layer to control liquids, an  
24 area of research.

25           Regarding bioreactor landfill projects, there is

1 one ongoing project that the Board is -- I'm sure the  
2 Board's aware of, and that's at the Yolo County landfill.  
3 And that was approved under U.S. EPA's Project Excel  
4 program, which was a program no longer available for  
5 flexibility, but it allowed for the bulk liquids  
6 prohibition to be waived specific for that project.  
7 There's actually a -- in Subtitle D in Part 258 there's a  
8 federal rule which approves and conditions the Yolo County  
9 project. But that's not available anymore. They're not  
10 using that program.

11           There's another project that we're aware of  
12 that's ready to go, our understanding is, with the final  
13 permit revisions. But they would need a variance on  
14 liquids restrictions.

15           There's a second project that the California  
16 Energy Commission is funding that is desirous of this  
17 variance to move forward. And CEC has funded this because  
18 of the potential for substantially increasing the  
19 production of energy from landfill gas in this type of a  
20 research project.

21           There's several other projects in the preliminary  
22 planning stages. Sacramento county is looking in the long  
23 term for -- they've got some variance on that type of a  
24 project.

25           The other thing to point out is that there's

1 approximately 20 projects across the U.S., four of which  
2 are in the Project Excel Program.

3 Majority of these projects can get enough liquids  
4 by leachate recirculation alone. And on the East Coast  
5 it's wet and there's a lot of liquids already in the  
6 landfill. And they're operating as bioreactor landfills.  
7 They don't need a variance because the current federal  
8 requirements allow for recirculation of leachate, but they  
9 won't allow you to add liquids from outside the unit.

10 The problem in California, it's just by and large  
11 too dry to operate in this manner without adding both  
12 liquids or liquid waste from outside the unit.

13 --o0o--

14 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH  
15 MANAGER WALKER: In terms of RD&D and the state's Subtitle  
16 D program, California's an approved state under Subtitle  
17 D. We went through a long process back in '92, '93. And  
18 we update our program periodically with EPA Region 9.  
19 It's jointly implemented by the Waste Board and the Water  
20 Board.

21 And as far as RD&D, approved states must make  
22 changes in their program as stringent as the federal RD&D  
23 rule to allow for RD&D permits and allow for these  
24 temporary variances.

25 It's not required to maintain approved state

1 status. But if not incorporated in our program, we would  
2 not be allowed to grant the flexibility with regard to  
3 those variances.

4 Staff has prepared draft regulations that we are  
5 recommending for start of the comment period. And those  
6 are in the attachment to the Item 21. The approach here  
7 is a combined Title 27 rule that both Waste Board and the  
8 Water Board could enforce and use. But I'd like to also  
9 point out that the State Board staff for their part of the  
10 State Subtitle D program intend to amend their policy.  
11 They've got Policy Resolution 9362 to incorporate RD&D.  
12 This policy's already in Title 27. It's part of the State  
13 Subtitle D program. And independent of the Board, the  
14 State Water Resources Control Board will normally update  
15 their program through this policy. They've done it before  
16 on some changes.

17 --o0o--

18 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH  
19 MANAGER WALKER: Summary of -- just a brief summary of the  
20 regulations -- the draft regulations. Site specific  
21 approvals would be required using both the existing solid  
22 waste facility permit and waste discharge requirement --  
23 Water Board waste discharge requirement permit processes;  
24 or, if applicable, if it's not an operating site, the  
25 final closure plan process.



1 Renewals would be allowed. There's up to three  
2 allowed, for a total of 12-year limit on any RD&D project.

3 The regs include site-specific joint technical  
4 document -- enclosure plan documentation, a monitoring  
5 program, annual reports. And there's project termination  
6 authority. If it's not meeting objectives, each agency  
7 has the authority to terminate the project within the  
8 existing enforcement authority.

9 A very important thing to point out is the  
10 variances issued specific to those sections would not  
11 relieve the operator from complying with all other state  
12 standards that apply to MSW landfills. So it's very  
13 narrow focused on those specific federal standards that  
14 are reflected in the state requirements.

15 Working with the Water Board the staff conclude  
16 that this proposed new section along with existing state  
17 standards in the multiple permit processes are clearly  
18 more stringent than Subtitle D and are protective of  
19 public health and safety and the environment.

20 We have some slides going through the language.  
21 But, you know, if the Board requests us to go through it,  
22 we're prepared to do that. But I think now I'd just kind  
23 of jump into some of the -- just real brief summary of  
24 some of the comment letters that we just received.

25 --o0o--

1                REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

2    MANAGER WALKER:    We received in the past few days five  
3    comment letters regarding this item, including two in  
4    support and two in opposition.

5                There was another letter that requests double  
6    composite liners to be required for bioreactor landfills.  
7    And we forwarded that letter to the State Water Board  
8    staff for their consideration, as they have jurisdiction  
9    over the liner design.

10              Staff have reviewed these comments.    We've got a  
11    brief summary of them and our response.

12              May 7th there was a letter from a consortium of  
13    environmental groups that had three -- to summarize, three  
14    main recommendations.    With respect to the first  
15    recommendation, they believe that before we go to  
16    rulemaking, that we should first, and number one, is to  
17    set up a parallel process to give equally in-depth  
18    consideration to expand its source-separated composting to  
19    manage organic materials that bioreactor landfills are  
20    being proposed for.

21              Our comment on that is essentially -- our  
22    response on that is essentially, other than the same  
23    existing alternative daily cover and beneficial use  
24    allowances that is allowed for a regular dry tomb  
25    landfill -- dry landfill, all residual solid waste placed

1 in a landfill that is operated as a bioreactor landfill is  
2 disposal or would be disposal and enforced as such under  
3 AB 939.

4 BOARD MEMBER PEACE: So they could never argue  
5 that using composting stuff is beneficial use?

6 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

7 MANAGER WALKER: Pardon me?

8 BOARD MEMBER PEACE: Would they ever be able to  
9 argue that it would be -- you could call, you know, the  
10 organics as beneficial use because it's something they  
11 need for the bioreactor?

12 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

13 MANAGER WALKER: In the process for the alternative daily  
14 cover regulations, the Board adopted -- and I don't know  
15 what the status of the reg is. They're at OAL right now.  
16 We identified a separate section on beneficial reuse where  
17 the Board defined specific categories of beneficial reuse.  
18 And bioreactor landfill is not one of those defined  
19 beneficial reuse.

20 There's things like mulch for erosion control;  
21 there's aggregate for construction purposes. There are  
22 certain things like that that are identified that would be  
23 the same for whatever landfill you have.

24 And the other thing to point out is that the --  
25 the residual organic content of solid waste that cannot be

1 composted or diverted will be subjected to decomposition  
2 potentially amenable to bioreactor-landfill-type  
3 technologies. And states with yard waste bans, with green  
4 waste bans are implementing this technology. And these  
5 states include -- that we're aware of -- is Wisconsin,  
6 Kentucky, Indiana, and Florida. We don't have a green  
7 waste plan in the state, but there's sufficient organic  
8 content in the residual to be amenable to this controlled  
9 decomposition.

10 --o0o--

11 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH  
12 MANAGER WALKER: Last two slides here.

13 The second and third recommendations, again  
14 before we go to rulemaking, the comment letter requested  
15 we develop scientifically appropriate RD&D protocols as a  
16 condition for permitting so-called research bioreactor  
17 landfills. And a similar comment, which is the third one,  
18 established boundary lines for minimum design and  
19 operational parameters.

20 Our response on this is that there are protocols  
21 and guidance that's available based on the 20 projects  
22 that have occurred in the U.S. And there's a number of  
23 efforts for standards of practice and training and things  
24 like that that we could build from. We believe that the  
25 regs are based on that, and it does allow for the

1 site-specific determination of those protocols.

2 I think there are -- there is room to look at  
3 that a little bit more in these regs. In particular we  
4 might build in and tighten additional language such as EPA  
5 Project Excel has. I think there, you know, you're  
6 getting in a situation with the stakeholders and how  
7 detailed and not getting too detailed so you don't --  
8 you're removing and you're not fostering innovation,  
9 versus getting good environmental information to measure  
10 and document performance, performance goals, et cetera.

11 So there may be some room there. I think from  
12 staff's standpoint, we still feel that a comment period  
13 would be, you know, an appropriate forum to be able to do  
14 that. But, again, I think there are some areas there that  
15 this -- we could certainly consider some stuff based on  
16 the comments.

17 The other thing is there's three -- the technical  
18 standards -- we feel the existing Title 20 standards are  
19 way more stringent than Subtitle D in all the areas we  
20 look at. Three particular areas that the comment brought  
21 up general concerns, slope stability, the existing State  
22 Water Resources Control Board Standard 21750F5 is very  
23 stringent. Bioreactor landfills would have to comply with  
24 that. If they can't, you wouldn't be able to do it.

25 There's statements of concerns regarding air

1 emissions. Our response is that federal requirements  
2 under what's called NESHAPS rule, National Emission  
3 Standards, already regulates bioreactor landfill emissions  
4 much more stringent than a regular landfill. They have to  
5 put their gas control systems in much earlier.

6 Coupled with state standards, which are  
7 implemented by the air districts, the local air districts,  
8 this is very much more stringent and adequate for control  
9 of air emissions.

10 The project monitoring -- project monitoring to  
11 date has shown that the emissions controls are being  
12 successful and the predictions are that they're actually  
13 lower in the long term than a regular dry tomb landfill.  
14 So we think that that's -- you know, it's pretty sound,  
15 the existing requirements there.

16 The third area is statistical protocols for  
17 determining that the end of decomposition such that, say,  
18 you may -- the Board may, you know, approve stopping the  
19 post-closure maintenance period. Staff feel that that's  
20 really beyond the scope of this reg package. Right now we  
21 have a workshop in November and we're going to come back  
22 on the whole issue of post-closure maintenance period and  
23 criteria. That's going to be looked at for all landfills.

24 And bioreactor landfills are going to be subject  
25 to the same standard as dry tomb landfills, which is a

1 minimum of 30 years post-closure maintenance, but until  
2 demonstrated to be no longer a threat to public health and  
3 safety, to the environment. And criteria is being  
4 developed on a separate track for all projects' research.  
5 It's going to take time to develop. That's beyond the  
6 scope of this particular regulation package.

7 --o0o--

8 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

9 MANAGER WALKER: And then, finally, we had another letter  
10 from Californians Against Waste. There were some similar  
11 comments as the previous letter. But there's one  
12 additional one that we'd like to just point out real  
13 briefly.

14 What this letter said was that they felt that we  
15 should conduct -- the Board should conduct a market and  
16 life-cycle analysis before we initiate rulemaking process  
17 for new solid waste management technologies, including  
18 wet-cell landfills, which are bioreactor landfills  
19 basically, as it's legislatively mandated for conversion  
20 technologies.

21 Our response is that other than for conversion  
22 technologies, both markets and life-cycle analyses, and  
23 ADC for markets, there's no specific statutory authority  
24 to require that in order to adopt state minimum standards.  
25 So that's one problematic area.

1           We did consider a market study for alternative  
2 daily cover. But the concept was not approved because it  
3 was costly, it was complex, the length of time was  
4 extensive, and there was resource demands on staff. We  
5 did that under -- I believe it was last year we went  
6 through a process there. And I think that from staff's  
7 standpoint, that's problematic.

8           And, in addition, if you're going to do a market  
9 study on landfill impacts to composting, it's a very  
10 complex issue and should be done comprehensive and  
11 systematic and not just point out bioreactor landfills,  
12 which essentially the operational costs -- design  
13 operational costs are going to be higher than a dry tomb  
14 landfill anyway.

15           And some of the benefits are more indirect in  
16 terms of reduction of long-term risk. There is some  
17 potential revenue from landfill gas to energy, perhaps  
18 avoided costs on leachate control, and in some cases maybe  
19 landfill capacity savings. But that would be kind of what  
20 we would conclude there.

21           Now, with regard to life-cycle analyses, there  
22 was a study comparing these with other management  
23 scenarios. It was recently published in Biocycles,  
24 September and October of '03, and it was done by North  
25 Carolina State University. And it does show that there



1 are benefits to bioreactor landfill technology that are a  
2 potential.

3 --o0o--

4 REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

5 MANAGER WALKER: I'll just conclude and, you know, lay out  
6 the options for the Board.

7 And, you know, our recommendation is Option 1,  
8 for you to direct us to go forward to notice the  
9 regulations for a 45-day public comment period.

10 But the Board may also direct us to either revise  
11 the regs and go out for a 45-day comment period.

12 The third would be to direct us to go back and to  
13 get some additional stakeholder input, come back to the  
14 Board in response and make changes if necessary.

15 Or, four, to direct us to cease further activity  
16 on this rule in state programs.

17 So that would conclude staff presentation.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.

19 Ms. Peace.

20 BOARD MEMBER PEACE: Well, in light of the fact  
21 that the U.S. EPA just -- just issued this final rule  
22 allowing the RD&D permits just less than a month ago, so  
23 I'm hearing you say that you don't feel like we're rushing  
24 into this and that you feel that there's already  
25 sufficient safeguards and controls in place?

1                REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

2    MANAGER WALKER:    Yeah.    With respect to the -- I mean we  
3    do acknowledge that in a comment period, you know, we'll  
4    be looking at these issues -- we would be looking at these  
5    issues much more thoroughly and potentially, you know,  
6    we'd be recommending some changes.    But I think we think  
7    it's done enough.

8                With the draft rule that was issued, you know,  
9    two years ago, there was even a lot of buildup to that.  
10   And there's been a lot of activity there.    So we think --  
11   you know, we are ready from our standpoint.    You know,  
12   there are at least one project that's kind of held up  
13   right now and is anxious to go forward.    And so -- and I  
14   understand the Water Board and LEA are pretty -- they  
15   think it's probably going to be a pretty good project.  
16   And so, you know, we feel we're ready.    But certainly if  
17   the Board directs us, we'll -- you know, we could go back  
18   and do some more workshops and come back.

19               BOARD MEMBER PEACE:    Yeah, I agree.    No, I'd like  
20   to see this go forward, because I'd much rather deal with  
21   the toxic components of a landfill, you know, the leachate  
22   and the gas now as opposed to maybe, you know, 30 to 100  
23   years from now when there's less money and fewer  
24   responsible parties around to handle the mess.    So I agree  
25   with you.

1           CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
2 number of public speakers. I'm going to ask that you be  
3 brief. If you could keep it to two or three minutes, I'd  
4 appreciate it.

5           We'll start with Shannon Wright, followed by  
6 Ramin Yazdari.

7           I'm sure I mispronounced that. Sorry.

8           MR. WRIGHT: Good afternoon, Madam Chair and  
9 members of the Board. My name is Shannon Wright and I  
10 represent the CH2M Hill.

11           We've been currently performing some design and  
12 engineering for several bioreactor landfills, nationally  
13 and internationally. And we're here to provide support in  
14 favor of the proposed rules. We're aware of the negative  
15 comments that have been -- the Board has received to date.  
16 And we'd like to present a counter-veiling opinion to the  
17 negative comments.

18           We believe that the bioreactor landfills are a  
19 step in the direction of greater environmental protection,  
20 not less.

21           The science behind the bioreactor landfills has  
22 been presented in peer-reviewed publications for well over  
23 a decade. The information provides further evidence in  
24 support of our belief.

25           The basic bioreactor landfill engineering

1 concepts have been successfully demonstrated and  
2 meticulously documented in the Yolo County Bioreactor  
3 Project and several landfill projects throughout the  
4 United States, all of which has been placed in public  
5 record by the U.S. EPA.

6           The proposed rules do not relieve landfill owners  
7 and operators of requirements of existing landfill  
8 regulations to design safe -- landfills for safe  
9 operation, environmental protection, and geotechnical  
10 stability.

11           Designers are required to take the additional  
12 moisture into account when designing the liner system, the  
13 leachate collection and removal system, and the gas  
14 collection system and other landfill engineering systems.

15           As experienced landfill designers, we believe the  
16 proposed rules provide prudent next-step selective  
17 case-by-case research projects that have been sponsored by  
18 the -- well, excuse me -- from the selective case-by-case  
19 research projects sponsored by the U.S. EPA.

20           The proposed next step is allowing with  
21 site-specific limitations demonstration projects to  
22 implement bioreactor concepts on a larger, more general,  
23 practical scale.

24           Bioreactor landfill concepts have moved beyond  
25 current uncontrolled dry tomb landfills to a controlled

1 process of waste decomposition, where the inputs and  
2 outputs are more carefully controlled and the stabilized  
3 waste -- with a stabilized waste mass as quickly as  
4 possible.

5 Bioreactor landfill concept is not inherently  
6 incompatible with source-separating composting. MSW, or  
7 the municipal solid waste, remaining after source  
8 separation will still contain significant organic  
9 material. Bioreactor landfills can accelerate the  
10 ultimate decomposition of these materials.

11 We feel that the proposed rules provide a  
12 stepping stone to innovation while maintaining, at a  
13 minimum, current performance requirements and  
14 environmental protection required for existing landfills.

15 Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
17 very much.

18 Ramin Yazdari from Yolo County Planning and  
19 Public Works Department.

20 MR. YAZDARI: Good morning.

21 CHAIRPERSON MOULTON-PATTERSON: Good morning.

22 MR. YAZDARI: I'm happy to be here. Thank for  
23 your time.

24 I just want to express my appreciation to the  
25 Board for being so proactive in actually allowing that

1 kind of technology to be looked at, for your support, as  
2 well as all the hard work that the staff has done to bring  
3 it to this point.

4           As far as the county's concerned, this is an  
5 important item. We are definitely here to support it. We  
6 think that this is going to be a good move in the right  
7 direction mainly because it allows other alternatives to  
8 better management of landfill. The county's doing this  
9 because they feel that there is considerable benefits for  
10 the long-term risk. We're not doing it because it's going  
11 to bring revenue. It's going to bring in better  
12 management of landfill in reducing the risk for future --  
13 for the county and for closure and post-closure.

14           As you may know, the county has received support  
15 for this project over the past ten years. I've been  
16 involved in the small scale research of this technology as  
17 well as the full scale, which have been for the past three  
18 years we've been operating. So over ten years of  
19 experience and information has been gathered in the sense  
20 of research. And I think we have moved into a next phase,  
21 which is more development of this technology into a much  
22 larger scale than we have been experimenting.

23           Earlier speaker mentioned there's been -- over  
24 the past 25 years there's been literature published in the  
25 laboratory of scale, so the county has moved it from a lab

1 to a small scale to a full scale. And I think we're ready  
2 for moving to a next step, which is gathering more  
3 projects that are carefully designed. And I think the EPA  
4 Excel project has kind of put together guidelines that can  
5 be followed to protecting environment as well as provide  
6 guidance to some of these projects.

7 And I think both the water quality and the  
8 groundwater issues and all of those issues that you are  
9 concerned, the Water Board is concerned is already  
10 addressed. And Water Board staff and the county, the  
11 local enforcement agency, the air quality district, there  
12 has been a number of people that have actually signed an  
13 agreement with the county, other page document that took  
14 about a year to develop.

15 And that's available as a kind of basis to do  
16 these projects. And I discourage you from approving some  
17 kind of a cookie-cutting approach to this because you need  
18 to make flexibility available to the staff so that they  
19 could say we want more monitoring or we want more of  
20 something else for a different project at a different  
21 site. So I don't think necessarily just following what  
22 the county has done would fit every project.

23 So there's been a number of comments made. I  
24 will not have time to kind of comment about them. But  
25 basically the basis of all of those comments are not

1 science. It's based on opinions, and I've made this  
2 publicly -- I've made that comment previously that we need  
3 to make this a science rather than opinions. And let's  
4 put all the data together and try to move forward and  
5 allow more innovation so that we can go beyond just  
6 landfilling and actually treating the waste. I think  
7 there is opportunities to do that.

8 And thank you for your time.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
10 very much.

11 Don Augenstein.

12 MR. AUGENSTEIN: Hello and thank you. And I  
13 appreciate the opportunity to speak. I'm going to speak  
14 in favor of bioreactors also. I should tell you that I  
15 work with Ramin and have for a long time. So you can tell  
16 how I may feel about this.

17 As my background is a Masters in chemical  
18 engineering from MIT and I have over 40 publications on  
19 waste and climate issues and, among other things, have  
20 served on the United Nations Intergovernmental Panel on  
21 Climate Change, an expert working group on methane from  
22 waste.

23 So you've gotten letters with just a whole series  
24 of claims, and I think serious misconceptions about this.  
25 And I'll just stick to talking about one. And, that is,



1 that the bioreactor will vent massive quantities of  
2 methane into the atmosphere. I think Scott has alluded to  
3 this, and also Ramin has. But what you should know is  
4 that this major -- one major case in point is the Yolo  
5 bioreactor. It's been conducted for greenhouse gas  
6 reduction. You shorten the term of greenhouse gas  
7 generation and control the gas recovery much better.

8           And it's recognized for this climate benefit by  
9 the Greenhouse Gas Abatement Section of the U.S.  
10 Department of Energy and also the California Energy  
11 Commission, along others. Both of these have contributed  
12 major funding for just that purpose.

13           And aside from that issue, just to give you an  
14 example of how the RD&D rules deal with this, the draft  
15 rules, both federal and proposed state together, would  
16 allow for early and earlier and best practice and  
17 continuing methane recovery from bioreactors. And we have  
18 the data to prove this actually in our case.

19           So, in essence, I think that there have been a  
20 whole host of criticisms and problems identified --  
21 potential problems identified. We can address these. And  
22 this is not the place to do it here, because there are  
23 ways of addressing all of these problems, and many of them  
24 are addressed already in the field. I have written up  
25 already a draft with chapter and verse of how the problems

1 are being addressed and what the findings have been.

2           So I would just say that the bioreactor has been  
3 seen as somehow a competition with composting. Yet if we  
4 do our diversion, our recycling and our composting, we are  
5 going to have a remnant residual waste stream that still  
6 must be dealt with. And in dealing with that, the one  
7 thing we are seeing is that we cannot put it into a dry  
8 tomb. We've also proved this with the Yolo County  
9 project. We see -- we have proven the dry tomb. It just  
10 sits there. It doesn't do anything until perhaps later  
11 when something goes wrong when nobody's there to take care  
12 of it.

13           So you should be treating the waste early on and  
14 carefully and with good management. And that all can be  
15 done. And this is not the place to raise the ways in  
16 which the management can be carried out.

17           But I will also note that you do get -- you do  
18 get renewable energy conservation and other benefits with  
19 this remnant stream that you would not otherwise accrue if  
20 you don't run bioreactors put instead have a dry tomb.

21           So all of these issues have been raised during  
22 the EPA comment period as well. So I would just hope and  
23 urge that the Waste Board could expeditiously --

24           CHAIRPERSON MOULTON-PATTERSON: Thank you.

25           Mr. Washington has a question.

1 MR. AUGENSTEIN: Pardon?

2 BOARD MEMBER WASHINGTON: Yeah, a brief question  
3 to you.

4 Was that tomb that you guys did in Yolo County,  
5 was it a dry tomb or was it --

6 MR. YAZDARI: That was dry too. Yeah, it was --  
7 I have -- actually some place I've got a picture of it  
8 here. We had a membrane over it to keep out all moisture.  
9 We wanted to see, is the dry tomb real? Because nobody  
10 had really good measurements. It's been claimed a lot.  
11 The evidence has been anecdotal. And in this case the gas  
12 generation just screeched to a halt. Decomposition  
13 stopped. Everything stopped. It was a dry tomb.

14 BOARD MEMBER WASHINGTON: Yeah, interesting you  
15 said that. I was -- I had an opportunity to visit a  
16 company in Atlanta, Georgia. And they did a makeshift  
17 operation, but they used moist. And the lifespan on their  
18 particular bioreactor was like six -- I can't remember the  
19 actual timing there, but it was pretty short versus the  
20 dry tomb process.

21 MR. AUGENSTEIN: Well, there are claims. And  
22 people have also been running landfills and remnant  
23 post-recycling residuals in aerobic landfills, running the  
24 air through the landfills and running essentially the  
25 landfill as a composting operation.

1           In other words, the objective being the same,  
2   which is to get moisture in there and get air in there and  
3   oxidize that remnant waste. There are difficulties with  
4   that. There are difficulties in terms of the heat and  
5   mass transfer, the heat dissipation, and things that I  
6   don't have time to talk about here.

7           And the anaerobic is looking better because of  
8   the methane energy that could be -- you can get -- just to  
9   mention a number, I published this before, and you could  
10   probably be getting enough electricity for 300,000 or  
11   400,000 people in California more, over and above what  
12   could -- what is being gained now.

13           So hopefully that kind of thing can come about as  
14   a benefit.

15           BOARD MEMBER WASHINGTON: Thank you.

16           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
17   Augenstein. We appreciate you sharing.

18           MR. AUGENSTEIN: Thank you.

19           CHAIRPERSON MOULTON-PATTERSON: Scott Smithline,  
20   Californians Against Waste, who will be followed by George  
21   Larson, John Cupps.

22           You know the Board gets a little mean around  
23   lunchtime.

24           MR. SMITHLINE: Madam Chair, Board members, Thank  
25   you. Scott Smithline with Californians Against Waste.

1 I know there's probably still a line of speakers  
2 around me. I'll skip some of my introductory comments and  
3 get right to it.

4 I'm here today to ask you to adopt staff Option  
5 3, and postpone the initiation of this rulemaking process  
6 until the Board and the staff have had a chance to more  
7 fully vet this issue with stakeholders and to assess some  
8 of the potential risks associated with incorporating  
9 additional liquids into a landfill.

10 We strongly support experimenting with  
11 alternatives to dry tomb landfills. But EPA rule is not a  
12 comprehensive package, and we don't think it can just be  
13 cut and paste and substituted as a regulatory package in  
14 this case.

15 I'd just like to outline a few of our major  
16 concerns.

17 There are specific public health and safety and  
18 environmental concerns associated with what we actually  
19 prefer to call wet cell landfilling technologies. It's  
20 already been mentioned that there's increased leachate.  
21 There's increased landfill gas emissions over a very  
22 compressed period of time, possibly increased toxicity of  
23 landfill gas emissions, and as well serious concerns with  
24 geotechnical stability of these landfills.

25 Sorry. I'm going so fast, I'm watching his

1 fingers go here.

2           Our second main concern has to do with the  
3 composting markets. The Board has established composting  
4 as a priority for organics management in the State of  
5 California. We're concerned that this agenda item makes  
6 no mention of this issue. And it doesn't appear that  
7 there's been any research that has been done into the  
8 effects this wet cell landfill technologies may have on  
9 composting. And this is of particular concern in the  
10 current regulatory environment we're in where we know the  
11 Board is contemplating other technologies, i.e.,  
12 conversion technologies, all of which stand to compete for  
13 some of the same feed stocks.

14           Our final concern has to do with a lack of  
15 legitimate research requirements. If these are indeed  
16 research and development permits in more than name alone,  
17 there should be some minimum protocols established in this  
18 regulatory package, not just in the permits. If the  
19 purpose of these is to help the Board assess whether the  
20 benefits of these technologies, absent some catastrophe  
21 it's going to come down to good data. And I see it as one  
22 of the consistent challenges that this Board faces, is  
23 arrive at good data to make decisions.

24           What we're saying is let's identify up front what  
25 are the critical results that you will need to make the

1 assessment of whether these are successful and design a  
2 protocol in this regulatory package that fits a minimum  
3 standard so that if it's five years down the road and  
4 we're now looking back, we can say, "All right. We have  
5 the data now to make apples-to-apples comparisons. We can  
6 aggregate the data," as opposed to a situation where this  
7 landfill did it this way, this land did it this way, and  
8 we're in a situation where we can't really assess the data  
9 that we have.

10 In closing I would just like to say that the dry  
11 tomb has basically been the foundational theory behind the  
12 Subtitle D landfills. And the waste management industry  
13 and the solid waste governmental bureaucracies have been  
14 doing everything possible to keep our landfills dry. Now  
15 we're contemplating with the flip of a switch turning this  
16 concept on its head and adding massive volumes of liquids  
17 and biosolids into our solid waste landfills. This is a  
18 major shift in public policy. And what we're really  
19 asking is that before we start into a regulatory process  
20 that by definition has time constraints, let's make sure  
21 that we have fully examined some of these issues and have  
22 a regulatory package that will guarantee that these issues  
23 are included and looked at in that process.

24 I thank you for your time.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you very

1 much.

2 We have George Larson, and followed by John  
3 Cupps, followed by Chuck Helget.

4 MR. LARSON: Yes, George Larson representing  
5 Waste Management.

6 Chuck Helget asked that I make my comments for  
7 him also. We discussed my comments.

8 First I'd like to say I think I learned a lesson  
9 today. I think I was wrong on Agenda Item 18 when I tried  
10 to delay the consideration of -- so with the Board's  
11 concurrence, why don't we just move the motion that we had  
12 on Agenda Item 18, because we can address these issues in  
13 workshops simultaneously with a 45-day comment period.

14 (Laughter.)

15 MR. LARSON: Nice try.

16 Waste Management supports staff's position to  
17 move the regulations. We think it brings the regs  
18 developed at the federal level consistent here in  
19 California. Many of the issues that have been raised by  
20 interested parties can be handled during the regulatory  
21 process.

22 The RD&D permit does not -- and in fact very  
23 specifically requires that a facility operating under the  
24 RD&D permit must assure that the same or higher levels of  
25 environmental and public health protection are assured as



1 with the operation of any landfill.

2           The RD&D provides a platform for new innovative  
3 technologies on a site-specific basis, not broad scale,  
4 that can potentially and significantly reduce future  
5 environmental problems.

6           The utilization of the RD&D regs will be time  
7 limited. They're three years in duration, with a  
8 potential for extending them three times, for a maximum of  
9 12 years. Annual reports are required.

10           The LEA and the CIWMB and the SWRCB are the only  
11 entities that can authorize the use of this type of  
12 permit. And this will not become a widespread practice  
13 until the R&D portion of the testing of these facilities  
14 are completed and evaluated.

15           Finally, in terms of protocols, this is research  
16 and development. There are no scientifically absolute  
17 protocols. The purpose of research and development should  
18 be, and I think in this case will be, to test protocols.  
19 We can suggest some protocols or various protocols. But  
20 it's only by actually testing them in the field that we'll  
21 come up with the best results and the best way to conduct  
22 the operations.

23           So I would suggest we move forward with the  
24 regulatory process, have the opportunity for all to air  
25 their concerns. And let's move this forward.

1 Thank you.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
3 Larson.

4 John Cupps, followed by Sean Edgar. And the last  
5 speaker's Yvette Agredano.

6 MR. CUPPS: John Cupps on behalf of the Los  
7 Angeles County Sanitation Districts.

8 We support the staff recommendation to go ahead  
9 and commence the rulemaking. As was demonstrated in  
10 Agenda Item 18, staff has been very creative in bringing  
11 flexibility to the rulemaking process in the manner that  
12 allows and assures that all interested parties have their  
13 fair say and that the issues are properly vetted. And so  
14 I think we just need to get on with what inevitably is  
15 going to be a very controversial debate.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
17 Sean Edgar, followed by Yvette Agredano.

18 MR. EDGAR: Madam Chair and Board members. Sean  
19 Edgar on behalf of the California Refuse Removal Council.

20 I'll avoid getting bogged down in the "B" word  
21 right before lunch. However, I'd like to point out that I  
22 think I the -- I echo the comments of Mr. Larson and also  
23 Mr. Helget's comments that we should move this regulatory  
24 effort forward today.

25 I'll make a connection just very briefly. What I

1 see coming in the widespread application of the Board's  
2 decision today is what I'll call a harmonic convergence  
3 with their GeoSyntech landfill compliance study. The  
4 Board spent well over a half million dollars. And some of  
5 the conclusions GeoSyntech presented to this Board just  
6 last month with their Task 6 report involved  
7 recommendations that this Board should specifically look  
8 at things that -- liner design and cover design and things  
9 of this nature that have to do with landfill geography and  
10 climatic conditions, so on, so forth.

11 I think that will -- this action today that we're  
12 asking you to move forward is a pathway for future  
13 site-specific approvals. And I think that -- Mr. Larson's  
14 probably right. I don't know that the rush toward the  
15 bioreactor debate is, you know, going to continue. But  
16 from our standpoint, there's value in allowing a whole  
17 wide range of other good projects that GeoSyntech brought  
18 to your attention that we should be pursuing. And I think  
19 that that's where we want to go today. And especially if  
20 your staff indicated that the proposed action is  
21 protective of health and safety, more stringent than  
22 current regulations. And my understanding is that in  
23 addition to opening ways for good projects to come back  
24 before this Board, that any of the projects that would be  
25 proposed for site-specific approvals would be coming back

1 in front of this Board's staff and the Water Board's  
2 staff.

3 So thank you for the opportunity to support this  
4 effort. And hope you'll all be able to move your staff's  
5 recommendation one forward.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 Yvette Agredano from California Chapter of SWANA.  
9 Welcome.

10 MS. AGREDANO: Good afternoon, Madam Chair,  
11 members. I'll be very brief.

12 We just want to state that we are for the reasons  
13 previously mentioned by other members in support. We  
14 would like this package to move forward for the 45-day  
15 public review and comment period. We believe that staff  
16 has made every effort possible to this point to work with  
17 all stakeholders. And we believe that they would do so in  
18 moving the package forward. So we are in support of  
19 Option 1.

20 Thanks.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
22 much.

23 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I  
24 could make just one quick comment.

25 CHAIRPERSON MOULTON-PATTERSON: Yes. And then

1 Mr. Paparian.

2           DEPUTY DIRECTOR LEVENSON: I do want to  
3 acknowledge -- you've heard a lot of comments. I do want  
4 to acknowledge the letter that most people are referring  
5 to from Gary Liss, with Peter Anderson's input, which  
6 raised a number of the issues. And Gary is unable to be  
7 here today. So I did want that on the record.

8           With respect to the three major areas that were  
9 raised in that letter that most people have commented on,  
10 a lot of the technical issues we as staff, both Water  
11 Board and Waste Board staff, feel that we can respond and  
12 adequately to those issues and explain where the  
13 protections are.

14           With respect to the idea of research protocols,  
15 as Scott indicated, we do agree that there's some room for  
16 including some kind of research protocols and maybe  
17 starting off with those that are right now in U.S. EPA's  
18 Project Excel regime.

19           The market issue is a lot more complicated, that  
20 Patty Wohl may want to speak on this. But clearly the  
21 Board has had longstanding support for the development of  
22 organics programs for the last ten years. We could do a  
23 market analysis at a first order level, if you will.  
24 Scott's mentioned already the information that indicates  
25 bioreactor landfills would be more costly than normal

1 landfills. And we could expand on that information. But  
2 clearly that's a difficult issue.

3 If we were going to do a comprehensive market  
4 analysis study, even the ADC one that we proposed to staff  
5 a couple years ago was on the order of \$250,000 just for a  
6 narrow factor that affects markets.

7 So I just wanted to get those points out.

8 But regardless of whether we do a workshop before  
9 a 45-day or after a 45-day, we would plan to have a  
10 workshop with stakeholders to go through the technical  
11 comments, look at research protocols, and address other  
12 comments.

13 Patty, I don't know if you'd add anything to  
14 that.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.  
16 Paparian.

17 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

18 I think the workshop is really appropriate at  
19 this point. I think we do have a number of complicated  
20 issues out there. We've got a seven-page letter with  
21 footnotes, amazingly, from a variety of environmental  
22 groups, Sierra Club, Natural Resources Defense Council,  
23 Global Recycling Coalition, Grassroots Recycling Network,  
24 raising issues and concerns.

25 I think rather than go through those and try to

1 offer some suggestions here from the dais about the  
2 direction to go, I think it would be more appropriate to  
3 have the sort of workshop that Mr. Levenson described and  
4 then maybe come back in July -- come back in a couple  
5 months -- have the workshop, come back to us and, you  
6 know, give us a synopsis of where we're at with the issues  
7 and how you want to proceed with the regulation package at  
8 that point.

9           That would be pretty much your Option 3, to get  
10 some additional stakeholder input through a workshop  
11 process, come back to us with any tweaks you might want to  
12 make to the regulation package, and address some of the  
13 concerns that have been raised about protocols and other  
14 items.

15           CHAIRPERSON MOULTON-PATTERSON: Thank you.

16           I don't think we have the four votes obviously to  
17 go on to direct you for the 45-day. However, could -- how  
18 soon could you hold the workshop? Because we're going to  
19 have six votes next month. It's a consideration.

20           REMEDIATION CLOSURE AND TECHNICAL SERVICES BRANCH

21 MANAGER WALKER: I think realistically a workshop in June  
22 and coming back in July is about the best we could do. It  
23 would be really hard to do it for June.

24           CHAIRPERSON MOULTON-PATTERSON: Is that okay with  
25 my colleagues?

1 BOARD MEMBER PEACE: I'd like to receive it  
2 sooner.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. Then the  
4 very latest, July? We've got that commitment, right?

5 DEPUTY DIRECTOR LEVENSON: Yes, ma'am.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

7 Okay. On to No. 24 and then to 27.

8 DEPUTY DIRECTOR WOHL: Patty Wohl, Waste  
9 Prevention and Market Development Division.

10 Agenda Item 24 is consideration of a grant award  
11 to the Collaborative for High Performance Schools (CHPS)  
12 for development of a CHPS road map.

13 And Bill Orr will present.

14 RECYCLING TECHNOLOGIES BRANCH MANAGER ORR: Good  
15 afternoon, Madam Chair and Board members. My name is Bill  
16 Orr, the Manager of the Recycling Technologies Branch.

17 The California Department of Education  
18 anticipates that over \$5 billion will be spent to design  
19 and construct nearly 300 schools every year for the next  
20 four years.

21 As most of you are aware, the Collaborative for  
22 High Performance Schools, or CHPS, developed a best  
23 practices manual and criteria to assist school districts  
24 with the implementation of high performance design into  
25 individual schools.



1           While 11 school districts in California have  
2   adopted CHPS resolutions, they lack the tools to assist  
3   them on how to institutionalize high performance goals on  
4   a district-wide level. This proposed CHPS road map would  
5   supplement the existing CHPS resources and assist  
6   districts with an easy way to navigate through this  
7   process.

8           Staff recommends that the Board approve Option 1,  
9   which would grant \$20,000 to CHPS for the development of  
10   this implementation road map, and adopt Resolution No.  
11   2004-142.

12           CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

13           BOARD MEMBER PAPARIAN: Thank you.

14           I'd like to move Resolution 2004-142.

15           CHAIRPERSON MOULTON-PATTERSON: I'll second.

16           Motion by Mr. Paparian, seconded by  
17   Moulton-Patterson, to approve resolution 2004-142.

18           Seeing no objection, please substitute the  
19   previous roll call.

20           Thank you, Mr. Orr.

21           Number 27.

22           DEPUTY DIRECTOR SCHIAVO: Item 27 is  
23   consideration of contractor for targeted statewide waste  
24   characterization studies. And staff recommendation is for  
25   the selection of Cascadia Consulting Group to perform the

1 study. And staff also recommends adoption of Resolution  
2 2004-144 Revision 2.

3 And staff are available for any questions you may  
4 have.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Peace.

6 BOARD MEMBER PEACE: I don't have -- I don't  
7 think I have any questions.

8 This is the same company that did the previous --

9 DEPUTY DIRECTOR SCHIAVO: This is the same  
10 company.

11 BOARD MEMBER PEACE: Okay. So I would like to  
12 move Resolution 2004-144 Revision 2, consideration of the  
13 scope of work for targeted statewide waste  
14 characterization studies, Fiscal Year 2003-2004 BPC No. 2  
15 "Update statewide waste characterization."

16 BOARD MEMBER WASHINGTON: Second.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
18 motion by Ms. Peace, seconded by Mr. Washington, to  
19 approve Resolution 2004-144 Revision 2.

20 Seeing no objection, please substitute the  
21 previous roll call. And thank you very much. I'm sorry  
22 we kept you a little late for lunch. Have a nice one.

23 (Thereupon the California Integrated  
24 Waste Management Board meeting adjourned  
25 at 1:00 p.m.)

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board  
7 meeting was reported in shorthand by me, James F. Peters,  
8 a Certified Shorthand Reporter of the State of California,  
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in any  
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 18th day of May, 2004.

15

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22 JAMES F. PETERS, CSR, RPR

23 Certified Shorthand Reporter

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